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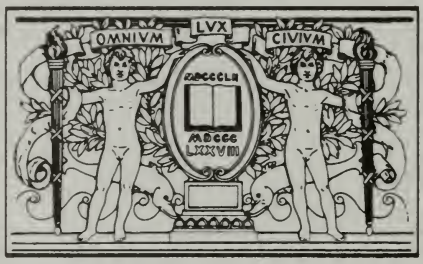

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THE

LAWS

OF THE

COMMONWEALTH

OF

MASSACHUSETTS,

Paſſed from the Year 1780, to the End of the Year 1800,

WITH THE

CONSTITUTIONS OF THE UNITED STATES OF AMERICA, AND OF THE COMMONWEALTH, PREFIXED.

TO WHICH IS ADDED,

AN APPENDIX,

CONTAINING

ACTS AND CLAUSES OF ACTS, FROM THE LAWS OF THE LATE COLONY, PROVINCE AND STATE OF MASSACHUSETTS, WHICH EITHER ARE UNREVISED OR RESPECT THE TITLE OF REAL ESTATE.

IN TWO VOLUMES.

VOL. I.

Published by Order of the General Court.

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1801.

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COMMONWEALTH OF MASSACHUSETTS.

SECRETARY'S OFFICE, *December* 31, 1800.

THIS certifies that I have carefully compared the copies of the Laws of the Commonwealth of Maſſachuſetts, as printed in this Edition, with the originals depoſited in this Office, and find them to be correct.

JOHN AVERY, *Secretary.*

COMMONWEALTH OF MASSACHUSETTS.

IN SENATE, *February* 28, 1799.

RESOLVED, That the Hon. NATHAN DANE, GEORGE RICHARDS MINOT, and JOHN DAVIS, Eſqrs. be and hereby are appointed a Committee, and authorized, in behalf of this Commonwealth, to contract for a new edition of the Statute Laws of this Commonwealth, paſſed or to be paſſed previous to the end of the preſent ſeſſion of the General Court, reviſed or unreviſed. Said edition to contain the Conſtitution of the United States and of this State, the Statute Laws and parts of Statute Laws of a public nature of this Commonwealth, and ſuch Britiſh Statutes and parts of Britiſh Statutes, adopted and now practiſed upon in this State, as the ſaid Committee ſhall judge neceſſary: and ſhall alſo contain the titles and dates of ſuch private or ſpecial Statute Laws of this Commonwealth, as the ſaid Committee may direct. And to each volume there ſhall be formed and annexed a complete Index, together with ſuch marginal references as ſaid Committee may approve.

And it is further reſolved, That the Committee aforeſaid are hereby authorized to agree with the perſon or perſons that may undertake the work aforeſaid, for five hundred ſets of ſaid edition, for the uſe of this Commonwealth, for ſuch price as ſhall appear reaſonable to ſaid Committee.

Sent down for concurrence.

SAMUEL PHILLIPS, *Preſident.*

IN THE HOUSE OF REPRESENTATIVES, *February* 28, 1799.

READ and concurred.

EDWARD H. ROBBINS, *Speaker.*

FEBRUARY 28, 1799. APPROVED. *Increase Sumner.*

A true Copy.—*Atteſt*, JOHN AVERY, *Secretary.*

THE Committee conſidered it allowable to include in this edition the Laws enacted during the progreſs of the work.

The Britiſh Statutes referred to in the Reſolution, are not contained in theſe volumes. The reaſons for the omiſſion are explained in the report of the Committee to the Legiſlature.

CONSTITUTION

OF THE

UNITED STATES.

WE, the People of the United States, in order to form a more perfect union, eſtabliſh juſtice, inſure domeſtic tranquillity, provide for the common defence, promote the general welfare, and ſecure the bleſſings of liberty to ourſelves and our poſterity, do ordain and eſtabliſh this Conſtitution for the United States of America.

ARTICLE I.

SECTION I.

ALL legiſlative powers herein granted ſhall be veſted in a Congreſs of the United States, which ſhall conſiſt of a Senate and Houſe of Repreſentatives.

SECT. II.

The Houſe of Repreſentatives ſhall be compoſed of members choſen every ſecond year by the people of the ſeveral States, and the Electors in each State ſhall have the qualifications requiſite for Electors of the moſt numerous branch of the State Legiſlature.

No perſon ſhall be a Repreſentative who ſhall not have attained to the age of twenty-five years, and been ſeven years a citizen of the United States, and who ſhall not, when elected, be an inhabitant of that State in which he ſhall be choſen.

Repreſentatives and direct taxes ſhall be apportioned among the ſeveral States, which may be included within this Union, according to their reſpective numbers, which ſhall be determined by adding to the whole number of free perſons, including thoſe bound to ſervice for a term of years, and excluding Indians not taxed, three fifths of all other perſons. The actual enumeration ſhall be made within three years after the firſt meeting of the Congreſs of the United States, and within every ſubſequent term of ten years, in ſuch manner as they ſhall by law direct. The number of Repreſentatives ſhall not exceed

one for every thirty thouſand, but each State ſhall have at leaſt one Repreſentative; and, until ſuch enumeration ſhall be made, the State of *New-Hampſhire* ſhall be entitled to chooſe three, *Maſſachuſetts* eight, *Rhode-Iſland* and *Providence Plantations* one, *Connecticut* five, *New-York* ſix, *New-Jerſey* four, *Pennſylvania* eight, *Delaware* one, *Maryland* ſix, *Virginia* ten, *North-Carolina* five, *South-Carolina* five, and *Georgia* three.

When vacancies happen in the repreſentation from any State, the Executive Authority thereof ſhall iſſue writs of election to fill ſuch vacancies.

The Houſe of Repreſentatives ſhall chooſe their Speaker and other officers; and ſhall have the ſole power of impeachment.

SECT. III.

The Senate of the United States ſhall be compoſed of two Senators from each State, choſen by the Legiſlature thereof, for ſix years; and each Senator ſhall have one vote.

Immediately after they ſhall be aſſembled in conſequence of the firſt election, they ſhall be divided as equally as may be into three claſſes. The ſeats of the Senators of the firſt claſs ſhall be vacated at the expiration of the ſecond year, of the ſecond claſs at the expiration of the fourth year, and of the third claſs at the expiration of the ſixth year, ſo that one third may be choſen every ſecond year; and if vacancies happen by reſignation, or otherwiſe, during the receſs of the Legiſlature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legiſlature, which ſhall then fill ſuch vacancies.

No perſon ſhall be a Senator who ſhall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who ſhall not, when elected, be an inhabitant of that State for which he ſhall be choſen.

The Vice-Preſident of the United States ſhall be Preſident of the Senate, but ſhall have no vote, unleſs they be equally divided.

The Senate ſhall chooſe their other officers, and alſo a Preſident pro-tempore, in the abſence of the Vice-Preſident, or when he ſhall exerciſe the office of Preſident of the United States.

The Senate ſhall have the ſole power to try all impeachments. When ſitting for that purpoſe, they ſhall be on oath or affirmation. When the Preſident of the United States is tried, the Chief Juſtice ſhall preſide: And no perſon ſhall be convicted without the concurrence of two-thirds of the members preſent.

Judgment in caſes of impeachment ſhall not extend further than to removal from office, and diſqualification to hold and enjoy any office of honour, truſt or profit under the United States; but the party convicted ſhall nevertheleſs be liable and ſubject

ſubject to indictment, trial, judgment, and puniſhment, according to law.

SECT. IV.

The times, places, and manner of holding elections for Senators and Repreſentatives, ſhall be preſcribed in each State by the Legiſlature thereof; but the Congreſs may, at any time, by law, make or alter ſuch regulations, except as to the places of chooſing Senators.

The Congreſs ſhall aſſemble at leaſt once in every year; and ſuch meeting ſhall be on the firſt Monday in December, unleſs they ſhall by law appoint a different day.

SECT. V.

Each Houſe ſhall be the judge of the elections, returns, and qualifications of its own members: and a majority of each ſhall conſtitute a quorum to do buſineſs; but a ſmaller number may adjourn from day to day, and may be authoriſed to compel the attendance of abſent members, in ſuch manner and under ſuch penalties as each Houſe may provide.

Each Houſe may determine the rules of its proceedings; puniſh its members for diſorderly behaviour; and, with the concurrence of two-thirds, expel a member.

Each Houſe ſhall keep a journal of its proceedings; and, from time to time, publiſh the ſame, excepting ſuch parts as may, in their judgment, require ſecrecy: and the yeas and nays of the members of either Houſe, on any queſtion, ſhall, at the deſire of one-fifth of thoſe preſent, be entered on the journal.

Neither Houſe, during the ſeſſion of Congreſs, ſhall, without the conſent of the other, adjourn for more than three days, nor to any other place than that in which the two Houſes ſhall be ſitting.

SECT. VI.

The Senators and Repreſentatives ſhall receive a compenſation for their ſervices, to be aſcertained by law, and paid out of the treaſury of the United States. They ſhall, in all caſes, except treaſon, felony, and breach of the peace, be privileged from arreſt, during their attendance at the ſeſſion of their reſpective Houſes, and in going to or returning from the ſame; and for any ſpeech or debate in either Houſe, they ſhall not be queſtioned in any other place.

No Senator or Repreſentative ſhall, during the time for which he was elected, be appointed to any civil office, under the authority of the United States, which ſhall have been created, or the emoluments whereof ſhall have been increaſed, during ſuch time: and no perſon holding any office under the United States, ſhall be a member of either Houſe, during his continuance in office.

SECT. VII.

All bills, for raiſing a revenue, ſhall originate in the Houſe of Repreſentatives; but the Senate may propoſe or concur with amendments, as on other bills. 2. Every

Every bill, which ſhall have paſſed the Houſe of Repreſentatives and the Senate, ſhall, before it become a law, be preſented to the Preſident of the United States. If he approve, he ſhall ſign it: but if not, he ſhall return it, with his objections, to that Houſe in which it ſhall have originated, who ſhall enter the objections at large on their journal, and proceed to re-conſider it. If, after ſuch re-conſideration, two thirds of that Houſe ſhall agree to paſs the bill, it ſhall be ſent, together with the objections, to the other Houſe, by which it ſhall likewiſe be re-conſidered: and if approved by two thirds of that Houſe, it ſhall become a law. But, in all ſuch caſes, the votes of both Houſes ſhall be determined by yeas and nays: and the names of the perſons voting for and againſt the bill ſhall be entered on the journal of each Houſe reſpectively. If any bill ſhall not be returned by the Preſident, within ten days (Sundays excepted) after it ſhall have been preſented to him, the ſame ſhall be a law, in like manner as if he had ſigned it, unleſs the Congreſs, by their adjournment, prevent its return; in which caſe it ſhall not be a law.

Every order, reſolution, or vote, to which the concurrence of the Senate and Houſe of Repreſentatives may be neceſſary (except on a queſtion of adjournment) ſhall be preſented to the Preſident of the United States; and, before the ſame ſhall take effect, ſhall be approved by him; or, being diſapproved by him, ſhall be re-paſſed by two thirds of the Senate and Houſe of Repreſentatives, according to the rules and limitations preſcribed in the caſe of a bill.

SECT. VIII.

The Congreſs ſhall have power

To lay and collect taxes, duties, impoſts and exciſes, to pay the debts, and provide for the common defence and general welfare of the United States: but all duties, impoſts and exciſes ſhall be uniform throughout the United States.

To borrow money on the credit of the United States.

To regulate commerce with foreign nations, and among the ſeveral States, and with the Indian tribes.

To eſtabliſh an uniform rule of naturalization, and uniform laws on the ſubject of bankruptcies, throughout the United States.

To coin money; regulate the value thereof, and of foreign coin; and fix the ſtandard of weights and meaſures.

To provide for the puniſhment of counterfeiting the ſecurities and current coin of the United States.

To eſtabliſh poſt offices and poſt roads.

To promote the progreſs of ſcience and uſeful arts, by ſecuring, for limited times, to authors and inventors, the excluſive right to their reſpective writings and diſcoveries.

To conſtitute tribunals inferior to the ſupreme court.

To define and puniſh piracies and felonies committed on the high ſeas, and offences againſt the law of nations.

To

To declare war; grant letters of marque and repriſal; and make rules concerning captures on land and water.

To raiſe and ſupport armies. But no appropriation of money to that uſe ſhall be for a longer term than two years.

To provide and maintain a navy.

To make rules for the government and regulation of the land and naval forces.

To provide for calling forth the militia, to execute the laws of the Union, ſuppreſs inſurrections, and repel invaſions.

To provide for organizing, arming and diſciplining the militia, and for governing ſuch part of them as may be employed in the ſervice of the United States: reſerving to the States reſpectively, the appointment of the officers, and the authority of training the militia according to the diſcipline preſcribed by Congreſs.

To exerciſe excluſive legiſlation, in all caſes whatſoever, over ſuch diſtrict (not exceeding ten miles ſquare) as may, by ceſſion of particular States, and the acceptance of Congreſs, become the ſeat of the Government of the United States; and to exerciſe like authority over all places purchaſed by the conſent of the Legiſlature of the State in which the ſame ſhall be, for the erection of forts, magazines, arſenals, dock-yards, and other needful buildings: and

To make all laws, which ſhall be neceſſary and proper for carrying into execution the foregoing powers, and all other powers veſted by this Conſtitution in the Government of the United States, or in any department or officer thereof.

SECT. IX.

The migration or importation of ſuch perſons, as any of the States now exiſting, ſhall think proper to admit, ſhall not be prohibited by the Congreſs, prior to the year one thouſand eight hundred and eight: but a tax or duty may be impoſed on ſuch importation, not exceeding ten dollars for each perſon.

The privilege of the writ of habeas corpus ſhall not be ſuſpended, unleſs when, in caſes of rebellion or invaſion, the public ſafety may require it.

No bill of attainder, or ex poſt facto law, ſhall be paſſed.

No capitation or other direct tax ſhall be laid, unleſs in proportion to the cenſus or enumeration herein before directed to be taken.

No tax or duty ſhall be laid on articles exported from any State. No preference ſhall be given, by any regulation of commerce or revenue, to the ports of one State over thoſe of another: nor ſhall veſſels, bound to or from one State, be obliged to enter, clear, or pay duties in another.

No money ſhall be drawn from the treaſury, but in conſequence of appropriations made by law: and a regular ſtatement and account of the receipts and expenditures of all public money ſhall be publiſhed from time to time.

No

No title of nobility shall be granted by the United States. And no person, holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.

SECT. X.

No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war, in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECT. I.

The Executive Power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives, to which the State may be entitled in the Congress. But no Senator, or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number

ber of Electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President: and if no person have a majority, then, from the five highest on the list, the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote: a quorum for this purpose shall consist of a member or members from two thirds of the States: and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors, shall be the Vice-President. But if there should remain two or more, who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.

The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President. Neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President: and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished, during the period for which he shall have been elected: and he shall not receive, within that period, any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States; and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

SECT. II.

The President shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating

to

to the duties of their respective offices: and he shall have power to grant reprieves and pardons, for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur: and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers, as they shall think proper, in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen, during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

SECT. III.

He shall, from time to time, give to the Congress information of the state of the Union; and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both Houses, or either of them, and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive Ambassadors and other public Ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECT. IV.

The President, Vice-President, and all civil officers of the United States, shall be removed from office, on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECT. I.

The Judical Power of the United States shall be vested in one Supreme Court, and in such Inferior Courts as the Congress may, from time to time, ordain and establish. The Judges, both of the Supreme and Inferior Courts, shall hold their offices during good behaviour; and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

SECT. II.

The Judicial Power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting Ambassadors, other public Ministers,

iſters, and Conſuls; to all caſes of admiralty and maritime juriſdiction; to controverſies to which the United States ſhall be a party; to controverſies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the ſame State, claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, Citizens or Subjects.

In all caſes, affecting Ambaſſadors, other public Miniſters, and Conſuls, and thoſe in which a State ſhall be a party, the Supreme Court ſhall have original juriſdiction. In all the other caſes before mentioned, the Supreme Court ſhall have appellate juriſdiction, both as to law and fact, with ſuch exceptions, and under ſuch regulations, as the Congreſs ſhall make.

The trial of all crimes, except in caſes of impeachment, ſhall be by jury: and ſuch trial ſhall be held in the State where the ſaid crimes ſhall have been committed; but when not committed within any State, the trial ſhall be at ſuch place or places as the Congreſs may by law have directed.

SECT. III.

Treaſon againſt the United States ſhall conſiſt only in levying war againſt them, or in adhering to their enemies, giving them aid and comfort. No perſon ſhall be convicted of treaſon unleſs on the teſtimony of two witneſſes to the ſame overt act, or on confeſſion in open court.

The Congreſs ſhall have power to declare the puniſhment of treaſon: but no attainder of treaſon ſhall work corruption of blood, or forfeiture, except during the life of the perſon attainted.

ARTICLE IV.

SECT. I.

Full faith and credit ſhall be given, in each State, to the public acts, records, and judicial proceedings of every other State. And the Congreſs may by general laws preſcribe the manner in which ſuch acts, records and proceedings ſhall be proved, and the effect thereof.

SECT. II.

The citizens of each State ſhall be entitled to all privileges and immunities of citizens in the ſeveral States.

A perſon charged in any State with treaſon, felony, or other crime, who ſhall flee from juſtice, and be found in another State, ſhall, on demand of the Executive Authority of the State from which he fled, be delivered up, to be removed to the State, having juriſdiction of the crime.

No perſon, held to ſervice or labour in one State, under the laws thereof, eſcaping into another, ſhall, in conſequence of any law or regulation therein, be diſcharged from ſuch ſervice or labour; but ſhall be delivered up on claim of the party to whom ſuch ſervice or labour may be due.

SECT. III.

New States may be admitted by the Congreſs into this Union; but no new State ſhall be formed or erected within the juriſdiction of any other State—nor any State be formed by the junction of two or more States, or parts of States—without the conſent of the Legiſlatures of the States concerned, as well as of the Congreſs.

The Congreſs ſhall have power to diſpoſe of, and make all needful rules and regulations reſpecting, the territory or other property belonging to the United States: and nothing in this Conſtitution ſhall be ſo conſtrued, as to prejudice any claims of the United States, or of any particular State.

SECT. IV.

The United States ſhall guarantee to every State in this Union a republican form of government; and ſhall protect each of them againſt invaſion, and on application of the Legiſlature, or of the Executive (when the Legiſlature cannot be convened) againſt domeſtic violence.

ARTICLE V.

The Congreſs, whenever two thirds of both Houſes ſhall deem it neceſſary, ſhall propoſe amendments to this Conſtitution, or, on the application of the Legiſlatures of two thirds of the ſeveral States, ſhall call a Convention for propoſing amendments, which, in either caſe, ſhall be valid to all intents and purpoſes, as part of this Conſtitution, when ratified by the Legiſlatures of three fourths of the ſeveral States, or by Conventions in three fourths thereof, as the one or the other mode of ratification may be propoſed by the Congreſs; provided, that no amendment, which may be made prior to the year one thouſand eight hundred and eight, ſhall in any manner affect the firſt and fourth clauſes in the ninth ſection of the firſt article; and that no State, without its conſent, ſhall be deprived of its equal ſuffrage in the Senate.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this Conſtitution, ſhall be as valid againſt the United States, under this Conſtitution, as under the Confederation.

This Conſtitution, and the laws of the United States which ſhall be made in purſuance thereof, and all treaties made, or which ſhall be made, under the authority of the United States, ſhall be the ſupreme law of the land: and the Judges in every State ſhall be bound thereby, any thing in the Conſtitution or laws of any State to the contrary notwithſtanding.

The Senators and Repreſentatives before mentioned, and the members of the ſeveral State Legiſlatures, and all Executive and

and Judicial officers, both of the United States and of the ſeveral States, ſhall be bound, by oath or affirmation, to ſupport this Conſtitution; but no religious teſt ſhall ever be required as a qualification to any office or public truſt under the United States.

ARTICLE VII.

The ratification of the Conventions of nine States ſhall be ſufficient for the eſtabliſhment of this Conſtitution between the States ſo ratifying the ſame.

DONE in Convention, by the unanimous conſent of the States preſent, the ſeventeenth Day of September, in the Year of our LORD, *One Thouſand Seven Hundred and Eighty-Seven, and of the Independence of the United States of America, the Twelfth. In Witneſs whereof, we have hereunto ſubſcribed our Names.*

GEORGE WASHINGTON, PRESIDENT,
And Deputy from VIRGINIA.

NEW-HAMPSHIRE,	JOHN LANGDON, NICHOLAS GILMAN.
MASSACHUSETTS,	NATHANIEL GORHAM, RUFUS KING.
CONNECTICUT,	WILLIAM SAMUEL JOHNSON, ROGER SHERMAN.
NEW-YORK,	ALEXANDER HAMILTON.
NEW-JERSEY,	WILLIAM LIVINGSTON, DAVID BREARLEY, WILLIAM PATERSON, JONATHAN DAYTON.
PENNSYLVANIA,	BENJAMIN FRANKLIN, THOMAS MIFFLIN, ROBERT MORRIS, GEORGE CLYMER, THOMAS FITZSIMONS, JARED INGERSOL, JAMES WILSON, GOUVERNEUR MORRIS.
DELAWARE,	GEORGE READ, GUNNING BEDFORD, junior, JOHN DICKINSON, RICHARD BASSETT, JACOB BROOM.
MARYLAND,	JAMES M'HENRY, DANIEL OF ST. THOMAS JENIFER, DANIEL CARROLL.

VIRGINIA,

VIRGINIA,	JOHN BLAIR, JAMES MADISON, jun.
NORTH-CAROLINA,	WILLIAM BLOUNT, RICHARD DOBBS SPAIGHT, HUGH WILLIAMSON.
SOUTH-CAROLINA,	JOHN RUTLEDGE, CHARLES COTESWORTH PINCKNEY, CHARLES PINCKNEY, PIERCE BUTLER.
GEORGIA,	WILLIAM FEW, ABRAHAM BALDWIN.

ATTEST,

WILLIAM JACKSON, *Secretary.*

In CONVENTION, Monday, Sept. 17, 1787.

PRESENT,

The States of NEW-HAMPSHIRE, MASSACHUSETTS, CONNECTICUT, Mr. HAMILTON from NEW-YORK, NEW-JERSEY, PENNSYLVANIA, DELAWARE, MARYLAND, VIRGINIA, NORTH-CAROLINA, SOUTH-CAROLINA, and GEORGIA:

RESOLVED,

THAT the preceding Conſtitution be laid before the United States in Congreſs aſſembled, and that it is the opinion of this Convention, that it ſhould afterwards be ſubmitted to a Convention of Delegates, choſen in each State by the people thereof, under the recommendation of its Legiſlature, for their aſſent and ratification; and that each Convention aſſenting to, and ratifying the ſame, ſhould give notice thereof to the United States, in Congreſs aſſembled.

RESOLVED, That it is the opinion of this Convention, that as ſoon as the Conventions of nine States ſhall have ratified this Conſtitution, the United States in Congreſs aſſembled ſhould fix a day on which Electors ſhould be appointed by the States which ſhall have ratified the ſame, and a day on which the Electors ſhould aſſemble to vote for the Preſident, and the time and place for commencing proceedings under this Conſtitution: That after ſuch publication, the Electors ſhould be appointed, and the Senators and Repreſentatives elected: That the Electors ſhould meet on the day fixed for the election of the Preſident, and ſhould tranſmit their votes certified, ſigned, ſealed and

and directed, as the Conſtitution requires, to the Secretary of the United States in Congreſs aſſembled: That the Senators and Repreſentatives ſhould convene at the time and place aſſigned: That the Senators ſhould appoint a Preſident of the Senate, for the ſole purpoſe of receiving, opening, and counting the votes for Preſident; and that, after he ſhall be choſen, the Congreſs, together with the Preſident, ſhould without delay proceed to execute this Conſtitution.

By the unanimous order of the Convention,

GEORGE WASHINGTON, Preſident.

WILLIAM JACKSON, Secretary.

In CONVENTION, September 17, 1787.

SIR,

WE have now the honour to ſubmit to the conſideration of the United States in Congreſs aſſembled, that Conſtitution which has appeared to us the moſt adviſable. The friends of our country have long ſeen and deſired, that the power of making war, peace and treaties, that of levying money and regulating commerce, and the correſpondent Executive and Judicial Authorities, ſhould be fully and effectually veſted in the General Government of the Union; but the impropriety of delegating ſuch extenſive truſts to one body of men is evident—Hence reſults the neceſſity of a different organization.

It is obviouſly impracticable in the federal government of theſe States, to ſecure all rights of independent ſovereignty to each, and yet provide for the intereſt and ſafety of all—Individuals entering into ſociety, muſt give up a ſhare of liberty to preſerve the reſt. The magnitude of the ſacrifice muſt depend as well on ſituation and circumſtance, as on the object to be obtained. It is at all times difficult to draw with preciſion, the line between thoſe rights which muſt be ſurrendered, and thoſe which may be reſerved; and on the preſent occaſion, this difficulty was increaſed by a difference among the ſeveral States as to their ſituation, extent, habits, and particular intereſts.

In all our deliberations on this ſubject, we kept ſteadily in our view, that which appears to us the greateſt intereſt of every true American, the conſolidation of our Union, in which is involved our proſperity, felicity, ſafety, perhaps our national exiſtence. This important conſideration, ſeriouſly and deeply impreſſed on our minds, led each State in the Convention to be

leſs

leſs rigid on points of inferior magnitude than might have been otherwiſe expected; and thus the Conſtitution which we now preſent, is the reſult of a ſpirit of amity, and of that mutual deference and conceſſion which the peculiarity of our political ſituation rendered indiſpenſable.

That it will meet the full and entire approbation of every State is not, perhaps, to be expected; but each will doubtleſs conſider, that had her intereſts been alone conſulted, the conſequences might have been particularly diſagreeable or injurious to others; that it is liable to as few exceptions as could reaſonably have been expected, we hope and believe; that it may promote the laſting welfare of that country ſo dear to us all, and ſecure her freedom and happineſs, is our moſt ardent wiſh.

With great reſpect, we have the honour to be, Sir, your Excellency's moſt obedient, and humble ſervants.

GEORGE WASHINGTON, Preſident.

By the unanimous order of the Convention.

His Excellency the Preſident of Congreſs.

UNITED STATES IN CONGRESS ASSEMBLED, Friday, September 28, 1787.

PRESENT,

NEW-HAMPSHIRE, MASSACHUSETTS, CONNECTICUT, NEW-YORK, NEW-JERSEY, PENNSYLVANIA, DELAWARE, VIRGINIA, NORTH-CAROLINA, SOUTH-CAROLINA, and GEORGIA, and from MARYLAND, Mr. Ross.

CONGRESS having received the Report of the Convention lately aſſembled in Philadelphia,

Reſolved, unanimouſly, That the ſaid Report, with the Reſolutions and Letter accompanying the ſame, be tranſmitted to the ſeveral Legiſlatures, in order to be ſubmitted to a Convention of Delegates choſen in each State by the people thereof, in conformity to the Reſolves of the Convention made and provided in that caſe.

CHARLES THOMSON, Secretary.

CONGRESS OF THE UNITED STATES,

Begun and held at the City of New-York, on Wednesday, the fourth of March, one thousand seven hundred and eighty-nine.

The CONVENTION of a number of the STATES having, at the time of their adopting the CONSTITUTION, expressed a desire, in order to prevent misconstructions or abuse of its powers, that further declaratory and restrictive clauses should be added—and as extending the ground of public confidence in the government will best insure the beneficent ends of its institution—

RESOLVED, by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, That the following Articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States, all, or any of which articles, when ratified by three fourths of the said Legislatures, to be valid, to all intents and purposes, as part of the said Constitution, viz.

ARTICLES,

In Addition to, and Amendment of, the CONSTITUTION *of the* UNITED STATES *of* AMERICA, *proposed by* CONGRESS, *and ratified by the* LEGISLATURES *of the several* STATES, *pursuant to the fifth article of the original Constitution.*

I. AFTER the first enumeration, required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred; after which, the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons—until the number of Representatives shall amount to two hundred; after which, the proportion shall be so regulated by Congress that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

II. No law, varying the compensation for the services of the Senators and Representatives shall take effect, until an election of Representatives shall have intervened.

III. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

IV. A

IV. A well-regulated militia being neceſſary to the ſecurity of a free State, the right of the people to keep and bear arms, ſhall not be infringed.

V. No ſoldier ſhall, in time of peace, be quartered in any houſe, without the conſent of the owner; nor in time of war, but in a manner to be preſcribed by law.

VI. The right of the people to be ſecure in their perſons, houſes, papers, and effects, againſt unreaſonable ſearches and ſeizures, ſhall not be violated: and no warrants ſhall iſſue, but upon probable cauſe, ſupported by oath or affirmation—and particularly deſcribing the place to be ſearched, and the perſons or things to be ſeized.

VII. No perſon ſhall be held to anſwer for a capital or otherwiſe infamous crime, unleſs on a preſentment or indictment by a grand jury, except in caſes ariſing in the land or naval forces, or in the militia, when in actual ſervice, in time of war, or public danger: nor ſhall any perſon be ſubject, for the ſame offence, to be twice put in jeopardy of life or limb; nor ſhall be compelled in any criminal caſe, to be a witneſs againſt himſelf; nor be deprived of life, liberty, or property, without due proceſs of law: nor ſhall private property be taken for public uſe, without juſt compenſation.

VIII. In all criminal proſecutions, the accuſed ſhall enjoy the right to a ſpeedy and public trial, by an impartial jury, of the State and diſtrict wherein the crime ſhall have been committed; which diſtrict ſhall have been previouſly aſcertained by law; and to be informed of the nature and cauſe of the accuſation; to be confronted with the witneſſes againſt him; to have compulſory proceſs for obtaining witneſſes in his favour; and to have the aſſiſtance of counſel for his defence.

IX. In ſuits at common law, where the value in controverſy ſhall exceed twenty dollars, the right of trial by jury ſhall be preſerved: and no fact tried by a jury, ſhall be otherwiſe re-examined in any court of the United States, than according to the rules of common law.

X. Exceſſive bail ſhall not be required; nor exceſſive fines impoſed; nor cruel and unuſual puniſhments inflicted.

XI. The enumeration, in the Conſtitution, of certain rights, ſhall not be conſtrued to deny or diſparage others, retained by the people.

XII. The powers, not delegated to the United States, by the Conſtitution, nor prohibited by it to the States, are reſerved to the States reſpectively, or to the people.

FREDERICK AUGUSTUS MUHLENBERG,
Speaker of the Houſe of Repreſentatives.

JOHN ADAMS, *Vice-Preſident of the United States, and Preſident of the Senate.*

Atteſt, JOHN BECKLEY, *Clerk of the Houſe of Repreſentatives.*
SAMUEL A. OTIS, *Secretary of the Senate.*

N. B. By

N. B. By the returns made into the Secretary of State's office, it appears that the firſt article of the above amendments is agreed to by only ſeven States—the ſecond by only four—and therefore theſe are not obligatory. All the remainder, having been ratified by nine States, are of equal obligation with the Conſtitution itſelf.

THIRD CONGRESS of the UNITED STATES,

At the ſecond ſeſſion, begun and held at the City of Philadelphia, in the State of Pennſylvania, on Monday the ſecond of December, 1793.

RESOLVED *by the Senate and Houſe of Repreſentatives of the United States of America, in Congreſs aſſembled, two thirds of both Houſes concurring,* That the following article be propoſed to the Legiſlatures of the ſeveral States, as an Amendment to the Conſtitution of the United States; which when ratified by three fourths of the ſaid Legiſlatures, ſhall be valid as part of the ſaid Conſtitution, viz.

The Judicial Power of the United States ſhall not be conſtrued to extend to any ſuit in law or equity, commenced or proſecuted againſt one of the United States by citizens of another State, or by citizens or ſubjects of any foreign State.

FREDERICK AUGUSTUS MUHLENBERG,
Speaker of the Houſe of Repreſentatives.

JOHN ADAMS,
Vice-Preſident of the United States, and Preſident of the Senate.

Atteſt, JOHN BECKLEY, *Clerk of the Houſe of Repreſentatives.*

SAMUEL A. OTIS, *Secretary of the Senate.*

THE

CONSTITUTION,

OR

FRAME OF GOVERNMENT,

FOR THE

COMMONWEALTH OF *MASSACHUSETTS*.

PREAMBLE.

THE end of the inſtitution, maintenance and adminiſtration of government, is to ſecure the exiſtence of the body politic; to protect it; and to furniſh the individuals who compoſe it, with the power of enjoying, in ſafety and tranquillity, their natural rights, and the bleſſings of life: and whenever theſe great objects are not obtained, the people have a right to alter the government, and to take meaſures neceſſary for their ſafety, proſperity and happineſs.

The body politic is formed by a voluntary aſſociation of individuals: It is a ſocial compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all ſhall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a Conſtitution of Government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his ſecurity in them.

WE, therefore, the People of Maſſachuſetts, acknowledging, with grateful hearts, the goodneſs of the Great Legiſlator of the univerſe, in affording us, in the courſe of his providence, an opportunity, deliberately and peaceably, without fraud, violence, or ſurpriſe, of entering into an original, explicit, and ſolemn compact with each other; and of forming a new Conſtitution of Civil Government, for ourſelves and poſterity; and devoutly imploring his direction in ſo intereſting a deſign, DO agree upon, ordain, and eſtabliſh, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS.

PART

PART THE FIRST.

A DECLARATION *of the* RIGHTS *of the* INHABITANTS *of the* COMMONWEALTH *of* MASSACHUSETTS.

ART. I. ALL men are born free and equal, and have certain natural, eſſential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, poſſeſſing, and protecting property; in fine, that of ſeeking and obtaining their ſafety and happineſs.

II. It is the right, as well as the duty, of all men in ſociety, publickly, and at ſtated ſeaſons, to worſhip the SUPREME BEING, the great Creator and Preſerver of the univerſe. And no ſubject ſhall be hurt, moleſted, or reſtrained, in his perſon, liberty, or eſtate, for worſhipping GOD in the manner and ſeaſon moſt agreeable to the dictates of his own conſcience; or for his religious profeſſion or ſentiments; provided he doth not diſturb the public peace, or obſtruct others in their religious worſhip.

III. As the happineſs of a people, and the good order and preſervation of civil government, eſſentially depend upon piety, religion, and morality; and as theſe cannot be generally diffuſed through a community, but by the inſtitution of the public worſhip of GOD, and of public inſtructions in piety, religion, and morality: Therefore, to promote their happineſs, and to ſecure the good order and preſervation of their government, the people of this Commonwealth have a right to inveſt their Legiſlature with power to authoriſe and require, and the Legiſlature ſhall, from time to time, authoriſe and require, the ſeveral towns, pariſhes, precincts, and other bodies politic, or religious ſocieties, to make ſuitable proviſion, at their own expenſe, for the inſtitution of the public worſhip of GOD, and for the ſupport and maintenance of public Proteſtant teachers of piety, religion, and morality, in all caſes where ſuch proviſion ſhall not be made voluntarily.

And the people of this Commonwealth have alſo a right to, and do, inveſt their Legiſlature with authority to enjoin upon all the ſubjects, an attendance upon the inſtructions of the public teachers aforeſaid, at ſtated times and ſeaſons, if there be any on whoſe inſtructions they can conſcientiouſly and conveniently attend.

Provided notwithſtanding, That the ſeveral towns, pariſhes, precincts, and other bodies politic, or religious ſocieties, ſhall, at all times, have the excluſive right of electing their public

teachers, and of contracting with them for their ſupport and maintenance.

And all monies paid by the ſubject to the ſupport of the public worſhip, and of the public teachers aforeſaid, ſhall, if he require it, be uniformly applied to the ſupport of the public teacher, or teachers, of his own religious ſect or denomination, provided there be any on whoſe inſtructions he attends; otherwiſe it may be paid towards the ſupport of the teacher, or teachers, of the pariſh or precinct in which the ſaid monies are raiſed.

And every denomination of Chriſtians, demeaning themſelves peaceably, and as good ſubjects of the Commonwealth, ſhall be equally under the protection of the law: and no ſubordination of any one ſect or denomination to another ſhall ever be eſtabliſhed by law.

IV. The people of this Commonwealth have the ſole and excluſive right of governing themſelves, as a free, ſovereign, and independent State; and do, and forever hereafter ſhall, exerciſe and enjoy every power, juriſdiction, and right, which is not, or may not hereafter be, by them expreſsly delegated to the United States of America in Congreſs aſſembled.

V. All power reſiding originally in the people, and being derived from them, the ſeveral magiſtrates and officers of government, veſted with authority, whether legiſlative, executive, or judicial, are their ſubſtitutes and agents, and are, at all times, accountable to them.

VI. No man, nor corporation, or aſſociation of men, have any other title to obtain advantages, or particular and excluſive privileges diſtinct from thoſe of the community, than what ariſes from the conſideration of ſervices rendered to the public; and this title being in nature neither hereditary nor tranſmiſſible to children, or deſcendants, or relations by blood, the idea of a man born a magiſtrate, law-giver, or judge, is abſurd and unnatural.

VII. Government is inſtituted for the common good; for the protection, ſafety, proſperity, and happineſs of the people; and not for the profit, honour, or private intereſt of any one man, family, or claſs of men: Therefore the people alone have an inconteſtable, unalienable, and indefeaſible right to inſtitute government; and to reform, alter, or totally change the ſame, when their protection, ſafety, proſperity, and happineſs require it.

VIII. In order to prevent thoſe, who are veſted with authority, from becoming oppreſſors, the people have a right, at ſuch periods, and in ſuch manner, as they ſhall eſtabliſh by their frame of government, to cauſe their public officers to return to private life; and to fill up vacant places, by certain and regular elections and appointments.

IX. All elections ought to be free; and all the inhabitants of this Commonwealth, having ſuch qualifications as they ſhall

eſtabliſh

eſtabliſh by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

X. Each individual of the ſociety has a right to be protected by it in the enjoyment of his life, liberty, and property, according to ſtanding laws. He is obliged, conſequently, to contribute his ſhare to the expenſe of this protection; to give his perſonal ſervice, or an equivalent, when neceſſary: but no part of the property of any individual can, with juſtice, be taken from him, or applied to public uſes, without his own conſent, or that of the repreſentative body of the people. In fine, the people of this Commonwealth are not controllable by any other laws, than thoſe to which their conſtitutional repreſentative body have given their conſent. And whenever the public exigencies require, that the property of any individual ſhould be appropriated to public uſes, he ſhall receive a reaſonable compenſation therefor.

XI. Every ſubject of the Commonwealth ought to find a certain remedy, by having recourſe to the laws, for all injuries or wrongs which he may receive in his perſon, property, or character. He ought to obtain right and juſtice freely, and without being obliged to purchaſe it; completely, and without any denial; promptly, and without delay; conformably to the laws.

XII. No ſubject ſhall be held to anſwer for any crime or offence, until the ſame is fully and plainly, ſubſtantially and formally, deſcribed to him; or be compelled to accuſe, or furniſh evidence againſt himſelf. And every ſubject ſhall have a right to produce all proofs that may be favourable to him; to meet the witneſſes againſt him, face to face; and to be fully heard in his defence, by himſelf, or his counſel, at his election. And no ſubject ſhall be arreſted, impriſoned, deſpoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or eſtate, but by the judgment of his peers, or the law of the land. And the Legiſlature ſhall not make any law, that ſhall ſubject any perſon to a capital or infamous puniſhment, excepting for the government of the army and navy, without trial by jury.

XIII. In criminal proſecutions, the verification of facts in the vicinity where they happen, is one of the greateſt ſecurities of the life, liberty and property of the citizen.

XIV. Every ſubject has a right to be ſecure from all unreaſonable ſearches, and ſeizures, of his perſon, his houſes, his papers, and all his poſſeſſions. All warrants, therefore, are contrary to this right, if the cauſe or foundation of them be not previouſly ſupported by oath or affirmation; and if the order in the warrant to a civil officer, to make ſearch in ſuſpected places, or to arreſt one or more ſuſpected perſons, or to ſeize their property, be not accompanied with a ſpecial deſignation of the perſons or objects of ſearch, arreſt, or ſeizure: And no warrant ought to be iſſued but in caſes, and with the formalities, preſcribed by the laws.

XV. In

XV. In all controverſies concerning property, and in all ſuits between two or more perſons, except in caſes in which it has heretofore been otherways uſed and practiſed, the parties have a right to a trial by a jury; and this method of procedure ſhall be held ſacred, unleſs, in cauſes ariſing on the high ſeas, and ſuch as relate to mariners' wages, the legiſlature ſhall hereafter find it neceſſary to alter it.

XVI. The liberty of the preſs is eſſential to the ſecurity of freedom in a State; it ought not, therefore, to be reſtrained in this Commonwealth.

XVII. The people have a right to keep and to bear arms for the common defence. And as in time of peace armies are dangerous to liberty, they ought not to be maintained without the conſent of the legiſlature; and the military power ſhall always be held in an exact ſubordination to the civil authority, and be governed by it.

XVIII. A frequent recurrence to the fundamental principles of the Conſtitution, and a conſtant adherence to thoſe of piety, juſtice, moderation, temperance, induſtry and frugality, are abſolutely neceſſary to preſerve the advantages of liberty, and to maintain a free government. The people ought, conſequently, to have a particular attention to all thoſe principles, in the choice of their officers and repreſentatives: And they have a right to require of their law-givers and magiſtrates, an exact and conſtant obſervance of them, in the formation and execution of the laws neceſſary for the good adminiſtration of the Commonwealth.

XIX. The people have a right, in an orderly and peaceable manner, to aſſemble to conſult upon the common good; give inſtructions to their repreſentatives; and to requeſt of the legiſlative body, by the way of addreſſes, petitions, or remonſtrances, redreſs of the wrongs done them, and of the grievances they ſuffer.

XX. The power of ſuſpending the laws, or the execution of the laws, ought never to be exerciſed but by the legiſlature, or by authority derived from it, to be exerciſed in ſuch particular caſes only as the legiſlature ſhall expreſsly provide for.

XXI. The freedom of deliberation, ſpeech and debate, in either houſe of the legiſlature, is ſo eſſential to the rights of the people, that it cannot be the foundation of any accuſation or proſecution, action, or complaint, in any other court or place whatſoever.

XXII. The legiſlature ought frequently to aſſemble for the redreſs of grievances, for correcting, ſtrengthening, and confirming the laws, and for making new laws, as the common good may require.

XXIII. No ſubſidy, charge, tax, impoſt, or duties, ought to be eſtabliſhed, fixed, laid, or levied, under any pretext whatſoever, without the conſent of the people, or their repreſentatives in the legiſlature.

XXIV. Laws

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXVII. In time of peace no soldier ought to be quartered in any house without the consent of the owner; and in time of war such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No person can in any case be subjected to lawmartial, or to any penalties or pains, by virtue of that law, except those employed in the army and navy, and except the militia in actual service, but by authority of the legislature.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honourable salaries ascertained and established by standing laws.

XXX. In the government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

PART THE SECOND.

THE FRAME OF GOVERNMENT.

THE People inhabiting the territory formerly called the Province of Massachusetts-Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body politic, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

CHAPTER

CHAPTER I.

The LEGISLATIVE POWER.

SECTION I.

THE GENERAL COURT.

ART. I. THE department of legiſlation ſhall be formed by two branches, *a Senate* and *Houſe of Repreſentatives:* each of which ſhall have a negative on the other.

The legiſlative body ſhall aſſemble every year on the laſt Wedneſday in *May*, and at ſuch other times as they ſhall judge neceſſary; and ſhall diſſolve and be diſſolved on the day next preceding the ſaid laſt Wedneſday in *May;* and ſhall be ſtyled, THE GENERAL COURT *of* MASSACHUSETTS.

II. No bill or reſolve of the Senate or Houſe of Repreſentatives ſhall become a law, and have force as ſuch, until it ſhall have been laid before the Governor for his reviſal: And if he, upon ſuch reviſion, approve thereof, he ſhall ſignify his approbation by ſigning the ſame. But if he have any objection to the paſſing of ſuch bill or reſolve, he ſhall return the ſame, together with his objections thereto, in writing, to the Senate or Houſe of Repreſentatives, in which ſoever the ſame ſhall have originated; who ſhall enter the objections ſent down by the Governor, at large, on their records, and proceed to re-conſider the ſaid bill or reſolve: But if after ſuch re-conſideration, two thirds of the ſaid Senate or Houſe of Repreſentatives, ſhall, notwithſtanding the ſaid objections, agree to paſs the ſame, it ſhall, together with the objections, be ſent to the other branch of the legiſlature, where it ſhall alſo be re-conſidered, and if approved by two thirds of the members preſent, it ſhall have the force of a law: But in all ſuch caſes, the votes of both houſes ſhall be determined by yeas and nays; and the names of the perſons voting for, or againſt, the ſaid bill or reſolve, ſhall be entered upon the public records of the Commonwealth.

And in order to prevent unneceſſary delays, if any bill or reſolve ſhall not be returned by the Governor within five days after it ſhall have been preſented, the ſame ſhall have the force of a law.

III. The General Court ſhall forever have full power and authority to erect and conſtitute judicatories and courts of record, or other courts, to be held in the name of the Commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, proceſſes, plaints, actions, matters, cauſes and things, whatſoever, ariſing or happening within the Commonwealth, or between or concerning perſons inhabiting,

inhabiting, or reſiding, or brought within the ſame; whether the ſame be criminal or civil, or whether the ſaid crimes be capital or not capital, and whether the ſaid pleas be real, perſonal, or mixt; and for the awarding and making out of execution thereupon: To which courts and judicatories are hereby given and granted full power and authority, from time to time, to adminiſter oaths or affirmations, for the better diſcovery of truth in any matter in controverſy or depending before them.

IV. And further, full power and authority are hereby given and granted to the ſaid General Court, from time to time, to make, ordain, and eſtabliſh, all manner of wholeſome and reaſonable orders, laws, ſtatutes, and ordinances, directions and inſtructions, either with penalties or without; ſo as the ſame be not repugnant or contrary to this Conſtitution, as they ſhall judge to be for the good and welfare of this Commonwealth, and for the government and ordering thereof, and of the ſubjects of the ſame, and for the neceſſary ſupport and defence of the government thereof; and to name and ſettle annually, or provide by fixed laws, for the naming and ſettling all civil officers within the ſaid Commonwealth; the election and conſtitution of whom are not hereafter in this Form of Government otherwiſe provided for; and to ſet forth the ſeveral duties, powers and limits, of the ſeveral civil and military officers of this Commonwealth, and the forms of ſuch oaths or affirmations as ſhall be reſpectively adminiſtered unto them for the execution of their ſeveral offices and places, ſo as the ſame be not repugnant or contrary to this Conſtitution; and to impoſe and levy proportional and reaſonable aſſeſſments, rates and taxes, upon all the inhabitants of, and perſons reſident, and eſtates, lying within the ſaid Commonwealth; and alſo to impoſe, and levy, reaſonable duties and exciſes, upon any produce, goods, wares, merchandize, and commodities whatſoever, brought into, produced, manufactured, or being within the ſame; to be iſſued and diſpoſed of by warrant, under the hand of the Governor of this Commonwealth for the time being, with the advice and conſent of the Council, for the public ſervice, in the neceſſary defence and ſupport of the government of the ſaid Commonwealth, and the protection and preſervation of the ſubjects thereof, according to ſuch acts as are or ſhall be in force within the ſame.

And while the public charges of government, or any part thereof, ſhall be aſſeſſed on polls and eſtates in the manner that has hitherto been practiſed; in order that ſuch aſſeſſments may be made with equality, there ſhall be a valuation of eſtates within the Commonwealth taken anew once in every ten years at the leaſt, and as much oftener as the General Court ſhall order.

CHAPTER

CHAPTER I.

SECTION II.

SENATE.

ART. I. THERE ſhall be annually elected by the freeholders and other inhabitants of this Commonwealth, qualified as in this Conſtitution is provided, forty perſons to be Counſellors and Senators for the year enſuing their election; to be choſen by the inhabitants of the diſtricts, into which the Commonwealth may from time to time be divided by the General Court for that purpoſe: And the General Court, in aſſigning the numbers to be elected by the reſpective diſtricts, ſhall govern themſelves by the proportion of the public taxes paid by the ſaid diſtricts; and timely make known to the inhabitants of the Commonwealth, the limits of each diſtrict, and the number of Counſellors and Senators to be choſen therein; provided that the number of ſuch diſtricts ſhall be never leſs than thirteen; and that no diſtrict be ſo large as to entitle the ſame to chooſe more than ſix Senators.

And the ſeveral counties in this Commonwealth ſhall, until the General Court ſhall determine it neceſſary to alter the ſaid diſtricts, be diſtricts for the choice of Counſellors and Senators (except that the counties of Dukes-County and Nantucket ſhall form one diſtrict for that purpoſe) and ſhall elect the following number for Counſellors and Senators, viz.

Suffolk	Six	York	Two
Eſſex	Six	Dukes-County and Nantucket	One
Middleſex	Five		
Hampſhire	Four	Worceſter	Five
Plymouth	Three	Cumberland	One
Barnſtable	One	Lincoln	One
Briſtol	Three	Berkſhire	Two

II. The Senate ſhall be the firſt branch of the legiſlature; and the Senators ſhall be choſen in the following manner, viz. There ſhall be a meeting on the firſt Monday in *April* annually, forever, of the inhabitants of each town in the ſeveral counties of this Commonwealth; to be called by the Selectmen, and warned in due courſe of law, at leaſt ſeven days before the firſt Monday in *April*, for the purpoſe of electing perſons to be Senators and Counſellors: And at ſuch meetings every male inhabitant of twenty-one years of age and upwards, having a freehold eſtate within the Commonwealth, of the annual income of three pounds, or any eſtate of the value of ſixty pounds, ſhall have a right to give in his vote for the Senators for the diſtrict of which he is an inhabitant. And to remove

all

all doubts concerning the meaning of the word "Inhabitant," in this Conſtitution, every perſon ſhall be conſidered as an inhabitant, for the purpoſe of electing and being elected into any office or place within this State, in that town, diſtrict or plantation, where he dwelleth, or hath his home.

The Selectmen of the ſeveral towns ſhall preſide at ſuch meetings impartially; and ſhall receive the votes of all the inhabitants of ſuch towns preſent and qualified to vote for Senators, and ſhall ſort and count them in open town-meeting, and in preſence of the Town-Clerk, who ſhall make a fair record, in preſence of the Selectmen, and in open town-meeting, of the name of every perſon voted for, and of the number of votes againſt his name; and a fair copy of this record ſhall be atteſted by the Selectmen and the Town-Clerk, and ſhall be ſealed up, directed to the Secretary of the Commonwealth for the time being, with a ſuperſcription, expreſſing the purport of the contents thereof, and delivered by the Town-Clerk of ſuch towns to the Sheriff of the county in which ſuch town lies, thirty days at leaſt before the laſt Wedneſday in *May* annually; or it ſhall be delivered into the Secretary's office ſeventeen days at leaſt before the ſaid laſt Wedneſday in *May*; and the Sheriff of each county ſhall deliver all ſuch certificates by him received into the Secretary's office ſeventeen days before the ſaid laſt Wedneſday in *May*.

And the inhabitants of plantations unincorporated, qualified as this Conſtitution provides, who are or ſhall be empowered and required to aſſeſs taxes upon themſelves toward the ſupport of government, ſhall have the ſame privilege of voting for Counſellors and Senators in the plantations where they reſide, as town inhabitants have in their reſpective towns; and the plantation-meetings for that purpoſe ſhall be held annually on the ſame firſt Monday in *April*, at ſuch place in the plantations reſpectively as the Aſſeſſors thereof ſhall direct; which Aſſeſſors ſhall have like authority for notifying the electors, collecting and returning the votes, as the Selectmen and Town-Clerks have in their ſeveral towns, by this Conſtitution. And all other perſons living in places unincorporated, (qualified as aforeſaid) who ſhall be aſſeſſed to the ſupport of government by the Aſſeſſors of an adjacent town, ſhall have the privilege of giving in their votes for Counſellors and Senators, in the town where they ſhall be aſſeſſed, and be notified of the place of meeting by the Selectmen of the town where they ſhall be aſſeſſed, for that purpoſe accordingly.

III. And that there may be a due convention of Senators on the laſt Wedneſday in *May* annually, the Governor, with five of the Council, for the time being, ſhall, as ſoon as may be, examine the returned copies of ſuch records; and fourteen days before the ſaid day he ſhall iſſue his ſummons to ſuch perſons as ſhall appear to be choſen by a majority of voters, to attend

attend on that day, and take their ſeats accordingly: Provided nevertheleſs, that for the firſt year the ſaid returned copies ſhall be examined by the Preſident and five of the Council of the former Conſtitution of Government; and the ſaid Preſident ſhall, in like manner, iſſue his ſummons to the perſons ſo elected, that they may take their ſeats as aforeſaid.

IV. The Senate ſhall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the Conſtitution; and ſhall, on the ſaid laſt Wedneſday in *May* annually, determine and declare who are elected by each diſtrict, to be Senators by a majority of votes: And in caſe there ſhall not appear to be the full number of Senators returned elected by a majority of votes for any diſtrict, the deficiency ſhall be ſupplied in the following manner, viz. The members of the Houſe of Repreſentatives, and ſuch Senators as ſhall be declared elected, ſhall take the names of ſuch perſons as ſhall be found to have the higheſt number of votes in ſuch diſtrict, and not elected, amounting to twice the number of Senators wanting, if there be ſo many voted for; and out of theſe, ſhall elect by ballot a number of Senators ſufficient to fill up the vacancies in ſuch diſtrict; and in this manner all ſuch vacancies ſhall be filled up in every diſtrict of the Commonwealth; and in like manner all vacancies in the Senate, ariſing by death, removal out of the State, or otherwiſe, ſhall be ſupplied as ſoon as may be, after ſuch vacancies ſhall happen.

V. Provided nevertheleſs, That no perſon ſhall be capable of being elected as a Senator, who is not ſeized in his own right of a freehold within this Commonwealth, of the value of three hundred pounds at leaſt, or poſſeſſed of perſonal eſtate to the value of ſix hundred pounds at leaſt, or of both to the amount of the ſame ſum, and who has not been an inhabitant of this Commonwealth for the ſpace of five years immediately preceding his election, and at the time of his election, he ſhall be an inhabitant in the diſtrict for which he ſhall be choſen.

VI. The Senate ſhall have power to adjourn themſelves, provided ſuch adjournments do not exceed two days at a time.

VII. The Senate ſhall chooſe its own Preſident, appoint its own officers, and determine its own rules of proceedings.

VIII. The Senate ſhall be a court with full authority to hear and determine all impeachments made by the Houſe of Repreſentatives, againſt any officer or officers of the Commonwealth, for miſconduct and mal-adminiſtration in their offices. But previous to the trial of every impeachment, the members of the Senate ſhall reſpectively be ſworn, truly and impartially to try and determine the charge in queſtion, according to evidence. Their judgment, however, ſhall not extend further than to removal from office, and diſqualification to hold or enjoy any place of honour, truſt, or profit, under this Commonwealth:

wealth: But the party ſo convicted, ſhall be nevertheleſs liable to indictment, trial, judgment, and puniſhment, according to the laws of the land.

IX. Not leſs than ſixteen members of the Senate ſhall conſtitute a quorum for doing buſineſs.

CHAPTER I.

SECTION III.

HOUSE OF REPRESENTATIVES.

ART. I. THERE ſhall be in the Legiſlature of this Commonwealth, a repreſentation of the people, annually elected, and founded upon the principle of equality.

II. And in order to provide for a repreſentation of the citizens of this Commonwealth, founded upon the principle of equality, every corporate town containing one hundred and fifty rateable polls, may elect one Repreſentative: every corporate town, containing three hundred and ſeventy-five rateable polls, may elect two Repreſentatives: every corporate town, containing ſix hundred rateable polls, may elect three Repreſentatives; and proceeding in that manner, making two hundred and twenty-five rateable polls the mean increaſing number for every additional Repreſentative.

Provided nevertheleſs, That each town now incorporated, not having one hundred and fifty rateable polls, may elect one Repreſentative: But no place ſhall hereafter be incorporated with the privilege of electing a Repreſentative, unleſs there are within the ſame one hundred and fifty rateable polls.

And the Houſe of Repreſentatives ſhall have power from time to time to impoſe fines upon ſuch towns as ſhall neglect to chooſe and return members to the ſame, agreeably to this Conſtitution.

The expenſes of travelling to the General Aſſembly, and returning home, once in every ſeſſion and no more, ſhall be paid by the government, out of the public treaſury, to every member who ſhall attend as ſeaſonably as he can, in the judgment of the Houſe, and does not depart without leave.

III. Every member of the Houſe of Repreſentatives ſhall be choſen by written votes; and for one year at leaſt next preceding his election, ſhall have been an inhabitant of, and have been ſeized in his own right of a freehold of the value of one hundred pounds within the town he ſhall be choſen to repreſent, or any rateable eſtate to the value of two hundred pounds;

pounds; and he ſhall ceaſe to repreſent the ſaid town immediately on his ceaſing to be qualified as aforeſaid.

IV. Every male perſon, being twenty-one years of age, and reſident in any particular town in this Commonwealth for the ſpace of one year next preceding, having a freehold eſtate within the ſame town, of the annual income of three pounds, or any eſtate of the value of ſixty pounds, ſhall have a right to vote in the choice of a Repreſentative, or Repreſentatives for the ſaid town.

V. The members of the Houſe of Repreſentatives ſhall be choſen annually in the month of *May*, ten days at leaſt before the laſt Wedneſday of that month.

VI. The Houſe of Repreſentatives ſhall be the Grand Inqueſt of this Commonwealth; and all impeachments made by them, ſhall be heard and tried by the Senate.

VII. All money-bills ſhall originate in the Houſe of Repreſentatives; but the Senate may propoſe or concur with amendments, as on other bills.

VIII. The Houſe of Repreſentatives ſhall have power to adjourn themſelves; provided ſuch adjournment ſhall not exceed two days at a time.

IX. Not leſs than ſixty members of the Houſe of Repreſentatives, ſhall conſtitute a quorum for doing buſineſs.

X. The Houſe of Repreſentatives ſhall be the judge of the returns, elections, and qualifications of its own members as pointed out in the Conſtitution; ſhall chooſe their own Speaker; appoint their own officers, and ſettle the rules and orders of proceeding in their own Houſe: They ſhall have authority to puniſh by impriſonment, every perſon, not a member, who ſhall be guilty of diſreſpect to the Houſe, by any diſorderly or contemptuous behaviour in its preſence; or who, in the town where the General Court is ſitting, and during the time of its ſitting, ſhall threaten harm to the body or eſtate of any of its members, for any thing ſaid or done in the Houſe; or who ſhall aſſault any of them therefor; or who ſhall aſſault, or arreſt any witneſs, or other perſon, ordered to attend the Houſe, in his way in going, or returning; or who ſhall reſcue any perſon arreſted by the order of the Houſe.

And no member of the Houſe of Repreſentatives ſhall be arreſted, or held to bail on mean proceſs, during his going unto, returning from, or his attending the General Aſſembly.

XI. The Senate ſhall have the ſame powers in the like caſes; and the Governor and Council ſhall have the ſame authority to puniſh in like caſes. Provided that no impriſonment on the warrant or order of the Governor, Council, Senate, or Houſe of Repreſentatives, for either of the above-deſcribed offences be for a term exceeding thirty days.

And the Senate and Houſe of Repreſentatives may try, and determine, all caſes where their rights and privileges are concerned,

cerned, and which, by the Conſtitution, they have authority to try and determine, by committees of their own members, or in ſuch other way as they may reſpectively think beſt.

CHAPTER II.

EXECUTIVE POWER.

SECTION I.

GOVERNOR.

ART. I. THERE ſhall be a ſupreme executive Magiſtrate, who ſhall be ſtyled, THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whoſe title ſhall be, HIS EXCELLENCY.

II. The Governor ſhall be choſen annually: And no perſon ſhall be eligible to this office, unleſs at the time of his election, he ſhall have been an inhabitant of this Commonwealth for ſeven years next preceding; and unleſs he ſhall, at the ſame time, be ſeized in his own right of a freehold within the Commonwealth, of the value of one thouſand pounds; and unleſs he ſhall declare himſelf to be of the Chriſtian religion.

III. Thoſe perſons who ſhall be qualified to vote for Senators and Repreſentatives, within the ſeveral towns of this Commonwealth, ſhall, at a meeting to be called for that purpoſe, on the firſt Monday of *April* annually, give in their votes for a Governor, to the Selectmen, who ſhall preſide at ſuch meetings; and the Town-Clerk, in the preſence and with the aſſiſtance of the Selectmen, ſhall, in open town-meeting, ſort and count the votes, and form a liſt of the perſons voted for, with the number of votes for each perſon againſt his name; and ſhall make a fair record of the ſame in the town books, and a public declaration thereof in the ſaid meeting; and ſhall, in the preſence of the inhabitants, ſeal up copies of the ſaid liſt, atteſted by him and the Selectmen, and tranſmit the ſame to the Sheriff of the County, thirty days at leaſt before the laſt Wedneſday in *May*: and the Sheriff ſhall tranſmit the ſame to the Secretary's office, ſeventeen days at leaſt before the ſaid laſt Wedneſday in *May*; or the Selectmen may cauſe returns of the ſame to be made to the office of the Secretary of the Commonwealth, ſeventeen days at leaſt before the ſaid day; and the Secretary ſhall lay the ſame before the Senate and Houſe of Repreſentatives, on the laſt Wedneſday in *May*, to be by them examined: And in caſe of an election by a majority of all the votes returned, the choice ſhall be by them declared and publiſhed: But if no perſon

ſon ſhall have a majority of votes, the Houſe of Repreſentatives ſhall, by ballot, elect two out of four perſons who had the higheſt numbers of votes, if ſo many ſhall have been voted for; but, if otherwiſe, out of the number voted for; and make return to the Senate of the two perſons ſo elected; on which, the Senate ſhall proceed by ballot to elect one, who ſhall be declared Governor.

IV. The Governor ſhall have authority, from time to time, at his diſcretion, to aſſemble and call together the Counſellors of this Commonwealth for the time being; and the Governor, with the ſaid Counſellors, or five of them at leaſt, ſhall, and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, agreeably to the Conſtitution and the laws of the land.

V. The Governor, with the advice of Council, ſhall have full power and authority, during the ſeſſion of the General Court, to adjourn or prorogue the ſame to any time the two Houſes ſhall deſire; and to diſſolve the ſame on the day next preceding the laſt Wedneſday in *May*; and, in the receſs of the ſaid Court, to prorogue the ſame from time to time, not exceeding ninety days in any one receſs; and to call it together ſooner than the time to which it may be adjourned or prorogued, if the welfare of the Commonwealth ſhall require the ſame: And in caſe of any infectious diſtemper prevailing in the place where the ſaid Court is next at any time to convene, or any other cauſe happening whereby danger may ariſe to the health or lives of the members from their attendance, he may direct the ſeſſion to be held at ſome other the moſt convenient place within the State.

And the Governor ſhall diſſolve the ſaid General Court on the day next preceding the laſt Wedneſday in *May*.

VI. In caſes of diſagreement between the two Houſes, with regard to the neceſſity, expediency or time of adjournment, or prorogation, the Governor, with advice of the Council, ſhall have a right to adjourn or prorogue the General Court, not exceeding ninety days, as he ſhall determine the public good ſhall require.

VII. The Governor of this Commonwealth for the time being, ſhall be the commander in chief of the army and navy, and of all the military forces of the State, by ſea and land; and ſhall have full power by himſelf, or by any commander, or other officer or officers, from time to time, to train, inſtruct, exerciſe and govern the militia and navy; and, for the ſpecial defence and ſafety of the Commonwealth, to aſſemble in martial array, and put in warlike poſture, the inhabitants thereof, and to lead and conduct them, and with them, to encounter, repel, reſiſt, expel and purſue, by force of arms, as well by ſea as by land, within or without the limits of this Commonwealth, and alſo to kill, ſlay and deſtroy, if neceſſary, and conquer by all fitting

fitting ways, enterprizes and means whatſoever, all and every ſuch perſon and perſons as ſhall, at any time hereafter, in a hoſtile manner, attempt or enterprize the deſtruction, invaſion, detriment, or annoyance of this Commonwealth; and to uſe and exerciſe, over the army and navy, and over the militia in actual ſervice, the law-martial, in time of war or invaſion, and alſo in time of rebellion, declared by the Legiſlature to exiſt, as occaſion ſhall neceſſarily require; and to take and ſurprize by all ways and means whatſoever, all and every ſuch perſon or perſons, with their ſhips, arms, ammunition and other goods, as ſhall, in a hoſtile manner, invade or attempt the invading, conquering, or annoying this Commonwealth; and that the Governor be entruſted with all theſe and other powers, incident to the offices of Captain-General and Commander in Chief, and Admiral, to be exerciſed agreeably to the rules and regulations of the Conſtitution, and the laws of the land, and not otherwiſe.

Provided, That the ſaid Governor ſhall not, at any time hereafter, by virtue of any power by this Conſtitution granted, or hereafter to be granted to him by the Legiſlature, tranſport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the ſame, without their free and voluntary conſent, or the conſent of the General Court; except ſo far as may be neceſſary to march or tranſport them by land or water for the defence of ſuch part of the State, to which they cannot otherwiſe conveniently have acceſs.

VIII. The power of pardoning offences, except ſuch as perſons may be convicted of before the Senate by an impeachment of the Houſe, ſhall be in the Governor, by and with the advice of Council: But no charter of pardon, granted by the Governor, with advice of the Council, before conviction, ſhall avail the party pleading the ſame, notwithſtanding any general or particular expreſſions contained therein, deſcriptive of the offence or offences intended to be pardoned.

IX. All Judicial Officers, the Attorney-General, the Solicitor-General, all Sheriffs, Coroners, and Regiſters of Probate, ſhall be nominated and appointed by the Governor, by and with the advice and conſent of the Council; and every ſuch nomination ſhall be made by the Governor, and made at leaſt ſeven days prior to ſuch appointment.

X. The Captains and Subalterns of the militia, ſhall be elected by the written votes of the train-band and alarm-liſt of their reſpective companies, of twenty-one years of age and upwards: The Field-Officers of regiments ſhall be elected by the written votes of the Captains and Subalterns of their reſpective regiments: The Brigadiers ſhall be elected in like manner, by the Field-Officers of their reſpective brigades: And ſuch officers, ſo elected, ſhall be commiſſioned by the Governor, who ſhall determine their rank.

The Legiſlature ſhall, by ſtanding laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the Governor the officers elected.

The Major-Generals ſhall be appointed by the Senate and Houſe of Repreſentatives, each having a negative upon the other; and be commiſſioned by the Governor.

And if the electors of Brigadiers, Field-Officers, Captains or Subalterns, ſhall neglect or refuſe to make ſuch elections, after being duly notified, according to the laws for the time being, then the Governor, with advice of Council, ſhall appoint ſuitable perſons to fill ſuch offices.

And no officer duly commiſſioned to command in the militia, ſhall be removed from his office, but by the addreſs of both Houſes to the Governor, or by fair trial in court-martial, purſuant to the laws of the Commonwealth for the time being.

The commanding officers of regiments ſhall appoint their Adjutants and Quarter-Maſters; the Brigadiers their Brigade-Majors; and the Major-Generals their Aids; and the Governor ſhall appoint the Adjutant-General.

The Governor, with advice of Council, ſhall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this Commonwealth ſhall appoint,—as alſo all officers of forts and garriſons.

The diviſions of the militia into brigades, regiments and companies, made in purſuance of the militia laws now in force, ſhall be conſidered as the proper diviſions of the militia of this Commonwealth, until the ſame ſhall be altered in purſuance of ſome future law.

XI. No monies ſhall be iſſued out of the treaſury of this Commonwealth, and diſpoſed of (except ſuch ſums as may be appropriated for the redemption of bills of credit or Treaſurer's notes, or for the payment of intereſt ariſing thereon) but by warrant under the hand of the Governor for the time being, with the advice and conſent of the Council, for the neceſſary defence and ſupport of the Commonwealth; and for the protection and preſervation of the inhabitants thereof, agreeably to the acts and reſolves of the General Court.

XII. All public boards, the Commiſſary-General, all ſuperintending officers of public magazines and ſtores, belonging to this Commonwealth, and all commanding officers of forts and garriſons within the ſame, ſhall, once in every three months, officially, and without requiſition, and at other times, when required by the Governor, deliver to him an account of all goods, ſtores, proviſions, ammunition, cannon with their appendages, and ſmall arms with their accoutrements, and of all other public property whatever under their care reſpectively; diſtinguiſhing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of

of such forts and garrisons: And the said commanding officer shall exhibit to the Governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbour or harbours adjacent.

And the said boards, and all public officers, shall communicate to the Governor, as soon as may be after receiving the same, all letters, dispatches, and intelligences of a public nature, which shall be directed to them respectively.

XIII. As the public good requires that the Governor should not be under the undue influence of any of the members of the General Court, by a dependence on them for his support —that he should, in all cases, act with freedom for the benefit of the public—that he should not have his attention necessarily diverted from that object to his private concerns—and that he should maintain the dignity of the Commonwealth in the character of its chief magistrate—it is necessary that he should have an honourable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: And it shall be among the first acts of the General Court, after the commencement of this Constitution, to establish such salary by law accordingly.

Permanent and honourable salaries shall also be established by law for the Justices of the Supreme Judicial Court.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged as the General Court shall judge proper.

CHAPTER II.

SECTION II.

LIEUTENANT-GOVERNOR.

ART. I. THERE shall be annually elected a Lieutenant-Governor of the Commonwealth of *Massachusetts*, whose title shall be—HIS HONOUR—and who shall be qualified, in point of religion, property, and residence in the Commonwealth, in the same manner with the Governor: And the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a Governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner: And if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the Senate and House of Representatives, in the same manner as the Governor is to

be elected, in case no one person shall have a majority of the votes of the people to be Governor.

II. The Governor, and in his absence the Lieutenant-Governor, shall be President of the Council, but shall have no vote in Council: And the Lieutenant-Governor shall always be a member of the Council, except when the chair of the Governor shall be vacant.

III. Whenever the chair of the Governor shall be vacant, by reason of his death, or absence from the Commonwealth, or otherwise, the Lieutenant-Governor for the time being, shall, during such vacancy, perform all the duties incumbent upon the Governor, and shall have and exercise all the powers and authorities, which by this Constitution the Governor is vested with, when personally present.

CHAPTER II.

SECTION III.

COUNCIL, AND THE MANNER OF SETTLING ELECTIONS BY THE LEGISLATURE.

ART. I. THERE shall be a Council for advising the Governor in the executive part of government, to consist of nine persons besides the Lieutenant-Governor, whom the Governor for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together. And the Governor, with the said Counsellors, or five of them at least, shall and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

II. Nine Counsellors shall be annually chosen from among the persons returned for Counsellors and Senators, on the last Wednesday in *May*, by the joint ballot of the Senators and Representatives assembled in one room: And in case there shall not be found upon the first choice, the whole number of nine persons, who will accept a seat in the Council, the deficiency shall be made up by the electors aforesaid, from among the people at large; and the number of Senators left, shall constitute the Senate for the year. The seats of the persons thus elected from the Senate, and accepting the trust, shall be vacated in the Senate.

III. The Counsellors, in the civil arrangements of the Commonwealth, shall have rank next after the Lieutenant-Governor.

IV. Not more than two Counsellors shall be chosen out of any one district of this Commonwealth.

V. The

V. The refolutions and advice of the Council, fhall be recorded in a regifter, and figned by the members prefent; and this record may be called for, at any time, by either Houfe of the Legiflature; and any member of the Council may infert his opinion contrary to the refolution of the majority.

VI. Whenever the office of the Governor and Lieutenant-Governor fhall be vacant, by reafon of death, abfence, or otherwife, then the Council or the major part of them, fhall, during fuch vacancy, have full power and authority, to do, and execute, all and every fuch acts, matters and things, as the Governor, or the Lieutenant-Governor, might or could, by virtue of this Conftitution, do or execute, if they, or either of them, were perfonally prefent.

VII. And whereas the elections appointed to be made by this Conftitution, on the laft Wednefday in *May* annually, by the two Houfes of the Legiflature, may not be completed on that day, the faid elections may be adjourned from day to day, until the fame fhall be completed. And the order of elections fhall be as follows: The vacancies in the Senate, if any, fhall firft be filled up; the Governor and Lieutenant-Governor fhall then be elected, provided there fhould be no choice of them by the people: And afterwards the two Houfes fhall proceed to the election of the Council.

CHAPTER II.

SECTION IV.

SECRETARY, TREASURER, COMMISSARY, &c.

ART. I. THE Secretary, Treafurer, and Receiver-General, and the Commiffary-General, Notaries-Public, and Naval-Officers, fhall be chofen annually, by joint ballot of the Senators and Repreſentatives in one room. And that the citizens of this Commonwealth may be aſſured, from time to time, that the monies remaining in the public treaſury, upon the ſettlement and liquidation of the public accounts, are their property, no man ſhall be eligible as Treaſurer and Receiver-General more than five years ſucceſſively.

II. The records of the Commonwealth ſhall be kept in the office of the Secretary, who may appoint his Deputies, for whoſe conduct he ſhall be accountable, and he ſhall attend the Governor and Council, the Senate and Houſe of Repreſentatives, in perſon, or by his Deputies, as they ſhall reſpectively require.

CHAPTER

CHAPTER III.

JUDICIARY POWER.

ART. I. THE tenure, that all commiſſion officers ſhall by law have in their offices, ſhall be expreſſed in their reſpective commiſſions. All judicial officers, duly appointed, commiſſioned and ſworn, ſhall hold their offices during good behaviour, excepting ſuch concerning whom there is different proviſion made in this Conſtitution: Provided nevertheleſs, the Governor, with conſent of the Council, may remove them upon the addreſs of both Houſes of the Legiſlature.

II. Each branch of the Legiſlature, as well as the Governor and Council, ſhall have authority to require the opinions of the Juſtices of the Supreme Judicial Court, upon important queſtions of law, and upon ſolemn occaſions.

III. In order that the people may not ſuffer from the long continuance in place of any Juſtice of the Peace, who ſhall fail of diſcharging the important duties of his office with ability or fidelity, all commiſſions of Juſtices of the Peace ſhall expire and become void, in the term of ſeven years from their reſpective dates; and upon the expiration of any commiſſion, the ſame may, if neceſſary, be renewed, or another perſon appointed, as ſhall moſt conduce to the well-being of the Commonwealth.

IV. The Judges of Probate of Wills, and for granting letters of adminiſtration, ſhall hold their courts at ſuch place or places, on fixed days, as the convenience of the people ſhall require. And the Legiſlature ſhall, from time to time, hereafter appoint ſuch times and places; until which appointments, the ſaid courts ſhall be holden at the times and places which the reſpective Judges ſhall direct.

V. All cauſes of marriage, divorce and alimony, and all appeals from the Judges of Probate, ſhall be heard and determined by the Governor and Council, until the Legiſlature ſhall, by law, make other proviſion.

CHAPTER IV.

DELEGATES TO CONGRESS.

THE Delegates of the Commonwealth to the Congreſs of the United States, ſhall, ſome time in the month of *June* annually, be elected by the joint ballot of the Senate and Houſe of Repreſentatives, aſſembled together in one room; to ſerve in Congreſs

Congreſs for one year, to commence on the firſt Monday in *November*, then next enſuing. They ſhall have commiſſions under the hand of the Governor, and the great ſeal of the Commonwealth; but may be recalled at any time within the year, and others choſen and commiſſioned, in the ſame manner, in their ſtead.

CHAPTER V.

The UNIVERSITY at CAMBRIDGE, and ENCOURAGEMENT of LITERATURE, &c.

SECTION I.

THE UNIVERSITY.

ART. I. WHEREAS our wiſe and pious anceſtors, ſo early as the year one thouſand ſix hundred and thirty-ſix, laid the foundation of Harvard College, in which Univerſity many perſons of great eminence have, by the bleſſing of GOD, been initiated in thoſe arts and ſciences, which qualified them for public employments both in Church and State: And whereas the encouragement of arts and ſciences, and all good literature, tends to the honour of GOD, the advantage of the Chriſtian religion, and the great benefit of this and the other United States of *America*—It is declared, That the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their ſucceſſors in that capacity, their officers and ſervants, ſhall have, hold, uſe, exerciſe and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchiſes, which they now have, or are entitled to have, hold, uſe, exerciſe and enjoy: And the ſame are hereby ratified and confirmed unto them, the ſaid Preſident and Fellows of Harvard College, and to their ſucceſſors, and to their officers and ſervants, reſpectively, forever.

II. And whereas there have been at ſundry times, by divers perſons, gifts, grants, deviſes of houſes, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard College in *Cambridge*, in *New-England*, or to the Preſident and Fellows of Harvard College, or to the ſaid College, by ſome other deſcription, under ſeveral charters ſucceſſively: IT IS DECLARED, That all the ſaid gifts, grants, deviſes, legacies and conveyances are hereby forever confirmed unto the Preſident and Fellows of Harvard College, and to their ſucceſſors, in the capacity aforeſaid, according to the true intent and

and meaning of the donor or donors, grantor or grantors, deviſor or deviſors.

III. And whereas by an act of the General Court of the Colony of *Maſſachuſetts-Bay*, paſſed in the year one thouſand ſix hundred and forty-two, the Governor and Deputy-Governor, for the time being, and all the magiſtrates of that juriſdiction, were, with the Preſident, and a number of the clergy in the ſaid act deſcribed, conſtituted the Overſeers of Harvard College: And it being neceſſary, in this new Conſtitution of Government, to aſcertain who ſhall be deemed ſucceſſors to the ſaid Governor, Deputy-Governor and Magiſtrates: IT IS DECLARED, That the Governor, Lieutenant-Governor, Council and Senate of this Commonwealth, are, and ſhall be deemed, their ſucceſſors; who, with the Preſident of Harvard College, for the time being, together with the Miniſters of the Congregational Churches in the towns of *Cambridge*, *Watertown*, *Charleſtown*, *Boſton*, *Roxbury*, and *Dorcheſter*, mentioned in the ſaid act, ſhall be, and hereby are, veſted with all the powers and authority belonging, or in any way appertaining, to the Overſeers of Harvard College; PROVIDED, that nothing herein ſhall be conſtrued to prevent the Legiſlature of this Commonwealth from making ſuch alterations in the government of the ſaid Univerſity, as ſhall be conducive to its advantage, and the intereſt of the republic of letters, in as full a manner as might have been done by the Legiſlature of the late Province of *Maſſachuſetts-Bay*.

CHAPTER V.

SECTION II.

THE ENCOURAGEMENT OF LITERATURE, &c.

WISDOM, and knowledge, as well as virtue, diffuſed generally among the body of the people, being neceſſary for the preſervation of their rights and liberties; and as theſe depend on ſpreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it ſhall be the duty of Legiſlatures and Magiſtrates, in all future periods of this Commonwealth, to cheriſh the intereſts of literature and the ſciences, and all ſeminaries of them; eſpecially the Univerſity at *Cambridge*, public ſchools, and grammar ſchools in the towns; to encourage private ſocieties and public inſtitutions, rewards and immunities, for the promotion of agriculture, arts, ſciences, commerce, trades, manufactures, and a natural hiſtory of the country; to countenance and inculcate the principles of humanity and general benevolence,

lence, public and private charity, induſtry and frugality, honeſty and punctuality in their dealings; ſincerity, good-humour, and all ſocial affections and generous ſentiments among the people.

CHAPTER VI.

Oaths and Subſcriptions; Incompatibility of and Excluſion from Offices; Pecuniary Qualifications; Commiſſions; Writs; Confirmation of Laws; Habeas Corpus; the Enacting Style; Continuance of Officers; Proviſion for a Future Reviſal of the Conſtitution, &c.

ART. I. ANY perſon choſen Governor, Lieutenant-Governor, Counſellor, Senator, or Repreſentative, and accepting the truſt, ſhall, before he proceed to execute the duties of his place or office, make and ſubſcribe the following declaration, viz.

"I, A. B. do declare, that I believe the Chriſtian religion, and have a firm perſuaſion of its truth; and that I am ſeized and poſſeſſed, in my own right, of the property required by the Conſtitution, as one qualification for the office or place to which I am elected."

And the Governor, Lieutenant-Governor, and Counſellors, ſhall make and ſubſcribe the ſaid declaration, in the preſence of the two Houſes of Aſſembly; and the Senators and Repreſentatives firſt elected under this Conſtitution, before the Preſident and five of the Council of the former Conſtitution, and forever afterwards before the Governor and Council for the time being.

And every perſon choſen to either of the places or offices aforeſaid, as alſo any perſon appointed or commiſſioned to any judicial, executive, military, or other office under the government, ſhall, before he enters on the diſcharge of the buſineſs of his place or office, take and ſubſcribe the following declaration, and oaths or affirmations, viz.

"I, A. B. do truly and ſincerely acknowledge, profeſs, teſtify and declare, that the Commonwealth of *Maſſachuſetts* is, and of right ought to be, a free, ſovereign and independent State; and I do ſwear, that I will bear true faith and allegiance to the ſaid Commonwealth, and that I will defend the ſame againſt traitorous conſpiracies, and all hoſtile attempts whatſoever: And that I do renounce and abjure all allegiance, ſubjection and obedience, to the King, Queen, or Government of *Great-Britain*,

Great-Britain, (as the case may be) and every other foreign power whatsoever: And that no foreign Prince, Person, Prelate, State or Potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing, or other power, in any matter, civil, ecclesiastical or spiritual, within this Commonwealth; except the authority and power which is, or may be, vested by their constituents in the Congress of the United States: And I do further testify and declare, that no man, or body of men, hath, or can have, any right to absolve or discharge me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me GOD."

"I, A. B. do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as ; according to the best of my abilities and understanding, agreeably to the rules and regulations of the Constitution, and the laws of this Commonwealth. So help me GOD."

Provided always, That when any person chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oaths, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words, "*I do swear*," "*and abjure*," "*oath or*," "*and abjuration*," in the first oath; and in the second oath, the words "*swear and*;" and in each of them the words, "*So help me GOD*;" subjoining instead thereof, "*This I do under the pains and penalties of perjury*."

And the said oaths or affirmations shall be taken and subscribed by the Governor, Lieutenant-Governor, and Counsellors, before the President of the Senate, in the presence of the two Houses of Assembly; and by the Senators and Representatives first elected under this Constitution, before the President and five of the Council of the former Constitution; and forever afterwards before the Governor and Council for the time being: And by the residue of the officers aforesaid, before such persons, and in such manner, as from time to time shall be prescribed by the Legislature.

II. No Governor, Lieutenant-Governor, or Judge of the Supreme Judicial Court, shall hold any other office or place, under the authority of this Commonwealth, except such as by this Constitution they are admitted to hold, saving that the Judges of the said Court may hold the offices of Justices of the Peace through the State; nor shall they hold any other place

or

or office, or receive any penſion or ſalary from any other State, or Government, or power whatever.

No perſon ſhall be capable of holding or exerciſing at the ſame time, more than one of the following offices within this State, viz. Judge of Probate—Sheriff—Regiſter of Probate—or Regiſter of Deeds—and never more than any two offices which are to be held by appointment of the Governor, or the Governor and Council, or the Senate, or the Houſe of Repreſentatives, or by the election of the people of the State at large, or of the people of any county, military offices and the offices of Juſtices of the Peace excepted, ſhall be held by one perſon.

No perſon holding the office of Judge of the Supreme Judicial Court — Secretary — Attorney-General — Solicitor-General — Treaſurer or Receiver-General—Judge of Probate---Commiſſary-General—Preſident, Profeſſor, or Inſtructor of Harvard College —Sheriff—Clerk of the Houſe of Repreſentatives—Regiſter of Probate—Regiſter of Deeds—Clerk of the Supreme Judicial Court—Clerk of the Inferior Court of Common Pleas—or Officer of the Cuſtoms, including in this deſcription Naval-Officers—ſhall at the ſame time have a ſeat in the Senate or Houſe of Repreſentatives; but their being choſen or appointed to, and accepting the ſame, ſhall operate as a reſignation of their ſeat in the Senate or Houſe of Repreſentatives; and the place ſo vacated ſhall be filled up.

And the ſame rule ſhall take place in caſe any Judge of the ſaid Supreme Judicial Court, or Judge of Probate, ſhall accept a ſeat in Council; or any Counſellor ſhall accept of either of thoſe offices or places.

And no perſon ſhall ever be admitted to hold a ſeat in the Legiſlature, or any office of truſt or importance under the government of this Commonwealth, who ſhall, in the due courſe of law, have been convicted of bribery or corruption, in obtaining an election or appointment.

III. In all caſes where ſums of money are mentioned in this Conſtitution, the value thereof ſhall be computed in ſilver, at ſix ſhillings and eight pence per ounce: And it ſhall be in the power of the Legiſlature from time to time, to increaſe ſuch qualifications, as to property, of the perſons to be elected to offices, as the circumſtances of the Commonwealth ſhall require.

IV. All commiſſions ſhall be in the name of the Commonwealth of *Maſſachuſetts*, ſigned by the Governor, and atteſted by the Secretary or his Deputy, and have the great ſeal of the Commonwealth affixed thereto.

V. All writs iſſuing out of the clerk's office in any of the courts of law, ſhall be in the name of the Commonwealth of *Maſſachuſetts*: They ſhall be under the ſeal of the court from whence

whence they iſſue: They ſhall bear teſt of the firſt Juſtice of the Court to which they ſhall be returnable, who is not a party, and be ſigned by the Clerk of ſuch Court.

VI. All the laws which have heretofore been adopted, uſed and approved, in the Province, Colony, or State of *Maſſachuſetts-Bay*, and uſually practiſed on in the courts of law, ſhall ſtill remain and be in full force, until altered or repealed by the Legiſlature; ſuch parts only excepted as are repugnant to the rights and liberties contained in this Conſtitution.

VII. The privilege and benefit of the writ of Habeas Corpus, ſhall be enjoyed in this Commonwealth, in the moſt free, eaſy, cheap, expeditious and ample manner; and ſhall not be ſuſpended by the Legiſlature, except upon the moſt urgent and preſſing occaſions, and for a limited time not exceeding twelve months.

VIII. The enacting Style, in making and paſſing all acts, ſtatutes and laws, ſhall be—"Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame."

IX. To the end there may be no failure of juſtice, or danger ariſe to the Commonwealth from a change of the Form of Government—all officers, civil and military, holding commiſſions under the government and people of *Maſſachuſetts-Bay*, in *New-England*, and all other officers of the ſaid government and people, at the time this Conſtitution ſhall take effect, ſhall have, hold, uſe, exerciſe and enjoy, all the powers and authority to them granted or committed, until other perſons ſhall be appointed in their ſtead: And all courts of law ſhall proceed in the execution of the buſineſs of their reſpective departments; and all the executive and legiſlative officers, bodies and powers ſhall continue in full force, in the enjoyment and exerciſe of all their truſts, employments and authority; until the General Court, and the ſupreme and executive officers under this Conſtitution, are deſignated and inveſted with their reſpective truſts, powers and authority.

X. In order the more effectually to adhere to the principles of the Conſtitution, and to correct thoſe violations which by any means may be made therein, as well as to form ſuch alterations, as from experience ſhall be found neceſſary—the General Court, which ſhall be in the year of our Lord one thouſand ſeven hundred and ninety-five, ſhall iſſue precepts to the Selectmen of the ſeveral towns, and to the Aſſeſſors of the unincorporated plantations, directing them to convene the qualified voters of their reſpective towns and plantations for the purpoſe of collecting their ſentiments on the neceſſity or expediency of reviſing the Conſtitution, in order to amendments.

And if it ſhall appear by the returns made, that two thirds of the qualified voters throughout the State, who ſhall aſſemble

and

and vote in conſequence of the ſaid precepts, are in favour of ſuch reviſion or amendment, the General Court ſhall iſſue precepts, or direct them to be iſſued from the Secretary's office to the ſeveral towns, to elect delegates to meet in convention for the purpoſe aforeſaid.

The ſaid delegates to be choſen in the ſame manner and proportion, as their Repreſentatives in the ſecond branch of the Legiſlature are, by this Conſtitution, to be choſen.

XI. This form of government ſhall be enrolled on parchment, and depoſited in the Secretary's office, and be a part of the laws of the land; and printed copies thereof ſhall be prefixed to the book containing the laws of this Commonwealth, in all future editions of the ſaid laws.

JAMES BOWDOIN, *Preſident.*

Atteſt, SAMUEL BARRETT, *Secretary.*

ACTS AND LAWS

OF

MASSACHUSETTS.

AN ACT for erecting a Town within the County of *Hampſhire*, by the Name of *Montgomery*.

[This Act paſſed *November* 28, 1780.]

An ACT making Proviſion for the Accommodation of Soldiers and Seamen belonging to other States or Commonwealths, who may be taken ſick and be in Want within this Commonwealth.

[This Act paſſed *December* 1, 1780.]

An ACT for repealing certain Parts of an Act poſtponing the Payment of Government Securities to a diſtant Period; for the Payment of the Intereſt now due on ſaid Securities; and for altering the ſeveral Acts of Government which now relate to the Currency of the State, and conforming the ſame to the Principles of Equality and Juſtice.

[This Act paſſed *January* 25, 1781.]

An ACT to prevent one ſeventh Part of the Bills of Credit of the New Emiſſion coming into Circulation, and for directing the Treaſurer to iſſue Gold and Silver out of the Treaſury therefor.

[This Act paſſed *January* 25, 1781.]

An ACT for eſtabliſhing a Salary of a fixed and permanent Value for his Excellency the Governor.

[This Act paſſed *February* 8, 1781. Repealed *February* 13, 1789.]

An ACT providing that all Veſſels of twenty Tons burthen and upwards, ſhall be provided with Regiſters, before they are permitted to enter and clear at any of the Naval Offices in this Commonwealth, and for empowering the Governor to ſign Blank Regiſters.

[This Act paſſed *February* 12, 1781.]

An ACT to enable the Proprietors of the Great Bridge over *York River*, in the firſt Pariſh in ſaid Town, to take Toll for the Repair and Amendments thereof.

[This Act paſſed *February* 12, 1781.]

An ACT in Addition to an Act paſſed in the Year One Thouſand Seven Hundred and Eighty, entitled, "An Act to indemnify and ſecure from Proſecutions in Law, Perſons who, by their laudable Exertions under the late Government of the King of Great-Britain, have expoſed themſelves to Actions of Damage and other Proſecutions in certain Caſes; and to extend the Benefits thereof to a longer Time than is provided in ſaid Act.

[This Act paſſed *February* 12, 1781.]

An ACT for eſtabliſhing Salaries of a fixed and permanent Value for the Juſtices of the Supreme Judicial Court.

[This Act paſſed *February* 12, 1781. Repealed *February* 27, 1790.]

An

An ACT in Addition to an Act, entitled, "An Act for taking up and reſtraining Perſons dangerous to this State."

[This Act paſſed *February* 14, 1781.]

An ACT for incorporating the ſecond Pariſh in *Georgetown*, in the County of *Lincoln*, into a ſeparate Town, by the Name of *Bath*.

[This Act paſſed *February* 17, 1781.]

An ACT to ſupply the Treaſury with the Sum of *Four Hundred Thouſand Pounds*—Money.

[This Act paſſed *February* 17, 1781.]

An ACT for erecting the Diſtrict of *Natick*, in the County of *Middleſex*, into a Town, by the Name of *Natick*.

[This Act paſſed *February* 19, 1781.]

An ACT to ſet off that Part of *Shelburne*, which lies on the South Side of *Deerfield* River, from ſaid Town, and annexing the ſame to the Town of *Conway*.

[This Act paſſed *February* 19, 1781.]

An ACT for inſtituting a Lottery for the ſole Purpoſe of clothing the *Maſſachuſetts* Part of the Continental Army.

[This Act paſſed *February* 19, 1781.]

An ACT more effectually to prevent the Deſtruction of Alewives in their Paſſage up the Rivers and Streams in the Towns of *Salem* and *Danvers*.

[This Act paſſed *February* 19, 1781.]

An ACT empowering the Supreme Judicial Court to take Cognizance of Matters heretofore cognizable by the late Superior Court.

Preamble.

WHEREAS by the Laws heretofore made by the General Aſſembly of the late Province, Colony and State of *Maſſachuſetts-Bay*, a Superior Court of Judicature, Court of Aſſize and General Gaol Delivery was conſtituted, and ſundry Powers and Authorities are given to the ſame Court by particular Laws. And whereas by the Conſtitution and Frame of Government of the Commonwealth of *Maſſachuſetts*, the Style and Title of the ſame Court is now the Supreme Judicial Court of the Commonwealth of *Maſſachuſetts*. And the Conſtitution aforeſaid having provided that the Laws heretofore made and adopted, ſhould continue and be in force until they ſhall be altered or repealed by the Legiſlature; whence ſome doubts may ariſe whether the Supreme Judicial Court ſhall have cognizance of thoſe matters which by particular laws were expreſsly made cognizable by the Superior Court of Judicature, Court of Aſſize and General Gaol Delivery:

The Supreme Judicial Court to take cognizance of all matters cognizable by the late Superior Court of Judicature, &c. unleſs.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the Authority of the ſame*, That the Court which hath been or ſhall be hereafter appointed and commiſſioned according to the Conſtitution as the Supreme Judicial Court of this Commonwealth, ſhall have cognizance of all ſuch matters as have heretofore happened, or that ſhall hereafter happen, as by particular Laws were made cognizable by the late Superior Court of Judicature, Court of Aſſize and General Gaol Delivery, unleſs where the Conſtitution and Frame of Government hath provided otherwiſe.

[This Act paſſed *February* 20, 1781.]

An ACT for annexing that Part of *Lancaſter*, called the Southerly Part, to the Town of *Shrewſbury*.

[This Act paſſed *February* 26, 1781.]

An ACT for poſtponing the Time for holding the firſt Court of Common Pleas and General Seſſions of the Peace in the County of *Berkſhire*; and for not holding more than two of ſaid Courts in ſaid County in one Year for the future, until the further Order of the General Court.

[This Act paſſed *February* 26, 1781.]

An

An ACT for erecting that Tract of Land lying in the County of *Berkſhire*, called *New Aſhford*, into a Diſtrict, by the Name of *New Aſhford*.

[This Act paſſed *February* 26, 1781.]

An ACT for forming and regulating the Militia within the Commonwealth of *Maſſachuſetts*, and for repealing all the Laws heretofore made for that purpoſe.

[This Act paſſed *March* 3, 1781.]

An ACT for recording and publiſhing the Doings of the Juſtices of the Supreme Judicial Court relating to the Settlement of the Value of the Bills of Credit current, within this Commonwealth.

[This Act paſſed *March* 3, 1781.]

An ACT for retaliating upon the Enemy, who are or that may hereafter be captivated and brought into this Commonwealth, the unwarrantable Treatment exerciſed, or that may hereafter be exerciſed by the Britiſh Commanders toward the Citizens of this Commonwealth, whom the Fortune of War has or may put into their Power.

[This Act paſſed *March* 3, 1781.]

An ACT for preventing all Commerce and illegal Correſpondence with the Enemies of the United States of *America*.

[This Act paſſed *March* 3, 1781.]

An ACT to regulate the Sale of Goods at Public Vendue, and to limit the Number of Auctioneers.

[This Act paſſed *March* 7, 1781. Expired.]

An ACT empowering Selectmen to call Town-Meetings for the Choice of Repreſentatives.

[This Act paſſed *April* 20, 1781. Repealed *February* 24, 1796.]

An ACT for incorporating the second Precinct of the Town of *Lancaster* into a Town, by the Name of *Sterling*.

[This Act passed *April* 25, 1781.]

An ACT in Amendment of an Act made and passed the last Session of the General Court, entitled, "An Act for instituting a Lottery for the sole Purpose of clothing the *Massachusetts* Line of the Continental Army."

[This Act passed *April* 25, 1781.]

An ACT for setting off *Samuel Park*, and others, from the Town of *Hopkinton*, and annexing them to the Town of *Holliston*.

[This Act passed *April* 28, 1781.]

An ACT in Addition to an Act made and passed at the last Session of the General Court, entitled, "An Act to regulate the Sale of Goods at Public Vendue, and to limit the Number of Auctioneers."

[This Act passed *April* 28, 1781.]

An ACT to prevent Damages being done upon the improved Lands adjoining to *Connecticut* River, by Reason of Timber being left thereon, by the Spring Floods; and for fixing a Time for the Owners to remove it.

Preamble.

WHEREAS considerable damages have been sustained by reason of timber being left upon the improved lands adjoining to *Connecticut* River, within this Commonwealth:

When timber shall be left upon any improved land, the owner to record the same.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That where any timber shall be left upon any improved land adjoining to *Connecticut* River by the Spring Floods, all islands in the river excepted, the owner of the land upon which the timber is left, in that case he shall cause to be recorded in the Book of Records within the same town the marks and length of such timber and the place where it

is

is ſo left by the flood, ſhall be entitled to *One Shilling* as a reaſonable damage he may ſuſtain for each ſtick of timber ſo left on his land, *Two Pence* of which to be given to the Town Clerk for recording, who is hereby directed to record the ſame. Entitled to damage.

Provided nevertheleſs, If the owner of the timber ſhall cauſe it to be removed by the fifteenth of *May* next ſucceeding after ſuch timber is left by the flood, no conſideration ſhall be allowed to the owner of the land for any damage.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That if the owners of ſuch timber ſhall not cauſe it to be removed within twelve months from the date of the record, in that caſe the ſame ſhall be adjudged to be the property of the owner of the land. Timber not removed within twelve months to be the property of the owner of the land.

[This Act paſſed *April* 28, 1781.]

An ACT in Addition to an Act, entitled, "An Act for preventing all Commerce and illegal Correſpondence with the Enemies of the United States of *America*."

[This Act paſſed *May* 1, 1781.]

An ACT empowering the Superintendant of Purchaſes of Beef, &c. to iſſue his Executions againſt the Treaſurers of the Towns delinquent in furniſhing the Article of Beef.

[This Act paſſed *May* 1, 1781.]

An ACT to provide more effectually for the Preſervation of the Fiſh called Alewives, in the Streams running into *Merrimack* River, within the Town of *Andover*.

[This Act paſſed *May* 8, 1781.]

An ACT for erecting the Northerly Part of the Town of *Shuteſbury*, and that Part of a Tract of Land called *Erving ſhire*, which lies on the South Side of *Miller*'s River, into a ſeparate Town, by the Name of *Wendell*.

[This Act paſſed *May* 8, 1781.]

An

An ACT for altering the Name of *Thomas Jackſon Greenwood*, of *Newton*, in the County of *Middleſex*, and permitting him to take the Name of *Alexander Shepard*.

[This Act paſſed *May* 8, 1781.]

An ACT to ſet off a Part of the Town of *Murrayfield*, and annex it to the Town of *Norwich*.

[This Act paſſed *May* 8, 1781.]

An ACT for incorporating the Plantation called *Cheſterfield-Gore*, and the Northwardly Part of the Town of *Cheſterfield*, in the County of *Hampſhire*, into a Town by the Name of *Goſhan*.

[This Act paſſed *May* 14, 1781.]

An ACT to empower the Treaſurer to receive Government Securities on Loan, to the Amount of *Eight Hundred Thouſand Pounds*.

[This Act paſſed *May* 15, 1781.]

An ACT to ſupply the Treaſury with the Sum of *Fifteen Thouſand Pounds*.

[This Act paſſed *May* 15, 1781.]

An ACT for repealing one Clauſe or Part of an Act of this Commonwealth, made and paſſed in the Year of our Lord One thouſand ſix hundred and ninety-nine, entitled, "An Act for rebuilding the Great Bridge over *Charles* River in the Town of *Cambridge*."

[This Act paſſed *May* 16, 1781.]

An ACT for the better Government and Regulation of the Ferry between *Boſton* and *Charleſtown*; and for repealing the Laws heretofore made for that Purpoſe.

[This Act paſſed *May* 16, 1781.]

An

An ACT for apportioning and aſſeſſing a Tax of £.374,795. 8*s*. 2*d*.

[This Act paſſed *May* 18, 1781.]

An ACT to empower the Quarter-Maſter-General or his Deputies within this Commonwealth to impreſs ſuch Teams as may be found neceſſary to tranſport Supplies to the Army.

[This Act paſſed *May* 18, 1781.]

An ACT for the eſtabliſhing of a Supreme Judicial Court in the County of *Berkſhire*.

[This Act paſſed *May* 18, 1781.]

An ACT for altering the Time for holding the Supreme Judicial Court in the County of *Briſtol*.

[This Act paſſed *May* 18, 1781.]

An ACT preſcribing the Form of the Writ of *Audita Querela*, and of the Proceedings thereupon.

Preamble.

WHEREAS juſtice cannot in many caſes be duly adminiſtered to the ſubjects of this Commonwealth without proſecuting a Writ of *Audita Querela*; and whereas there is no ſtatute in force in this Commonwealth directing the form of the ſaid Writ, and of the proceedings thereupon:

In all caſes where by law a writ of Audita Querela lieth, how to be ſued out and returnable.

SECT. 1. *Therefore be it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That in all caſes where by law a Writ of *Audita Querela* lieth, the ſame may be ſued out in the form of a Writ of Attachment, or a Writ of Summons, at the election of the complainant: And in all caſes where the ſaid Writ is brought to ſet aſide or annul any proceedings had upon a Writ of Execution, the ſaid Writ of *Audita Querela* ſhall be ſued out of and be returnable to the Court to which the ſaid Writ of Execution was returnable; and in all other caſes the ſaid Writ ſhall be ſued out of and be returnable to the Inferior Court of Common Pleas, to be holden in ſuch County whereof one of the parties thereto is an inhabitant or reſident; unleſs where the complainant is not an inhabitant or reſident within this Commonwealth; and in ſuch caſe the ſaid Writ may be ſued out of and be returnable to

any

any Inferior Court of Common Pleas within this Commonwealth, at the election of the complainant.

To be under the seal of the Court, signed, tested, and indorsed.

SECT. 2. *And be it further enacted by the authority aforesaid*, That in all cases the said Writ of *Audita Querela* shall be under the seal of the Court out of which the same shall issue, signed by the Clerk thereof, and tested by the first Justice who is not a party to the same; and the said Writ before the service thereof shall be indorsed by one or more of the complainants, or by his or their attorney, by writing his or their names on the back thereof towards the bottom; and such indorser shall be liable to pay to the respondent such costs as he shall have final judgment for, in that suit, to be recovered by Action of Debt.

How it may be served.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the said Writ of *Audita Querela* may be served upon the adverse party in the same manner as writs of review are directed by law to be served; and upon default of the respondent after such service, without appearance, the Court may proceed to hear and try the same suit, and thereupon to proceed to final judgment and execution, in the same manner as by law they are authorised when the respondent after appearance becomes defaulted. And in all cases after the said Writ is returned served as aforesaid, the Court in which the suit thereupon is pending, shall have full power to hear and try the said cause, and thereupon to proceed to judgment and execution according as to law and justice doth appertain.

SECT. 4. *And be it further enacted by the authority aforesaid*, That where the said Writ of *Audita Querela* shall be issued in the form of a Writ of Attachment; the form thereof may be as followeth.—

Form.

THE COMMONWEALTH OF MASSACHUSETTS.

——— ss.

(Seal.) *To the Sheriff of our County of his Undersheriff or Deputy,* GREETING.

WE command you to attach the goods or estate of A. B. of to the value of *Pounds*, and for want thereof, to take the body of the said A. B. if he may be found in your precinct, and him safely keep, so that you have him before our Justices of our Court next to be holden at within and for our County of on the Tuesday of then and there in our said Court to answer unto the grievous complaint of C. D. of who complaineth and saith—*(Here let the Declaration be inserted)*—by all which the said C. D. as he saith, is damaged the sum of *Pounds*, as shall then and there be made to appear. And have you there this Writ,

Writ, with your doings therein. Witneſs, W. C. Eſquire, at this day of in the year of our Lord

A. H. Clerk.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the officer to whom ſuch Writ is directed, ſhall have the ſame power and authority, and be under the ſame obligations by virtue of ſaid Writ, to attach the body of the reſpondent, or his goods, or eſtate, as he hath and is under by virtue of any other Writ of Attachment ſued out purſuant to the Laws of this Commonwealth and to him directed; and in the ſame manner and under the ſame reſtrictions and regulations as are by law provided in other caſes, the body of the reſpondent ſhall be holden to bail, and the goods or eſtate ſo attached be liable to be taken in execution.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That where the goods or eſtate of the reſpondent are attached by virtue of the Writ of *Audita Querela*, the ſummons to give him notice of the ſuit may be in the form following.

THE COMMONWEALTH OF MASSACHUSETTS.

(Seal.) ——— ſſ.

To A. B. of GREETING.

Form of the ſummons to give notice.

WE command you that you appear at our Court next to be holden at within and for our County of on the Tueſday of then and there to anſwer to the grievous complaint of C. D. of *(Here recite an abſtract of the declaration)* which complaint is to be heard and tried at the ſaid Court; and your goods or eſtate are attached to the value of *Pounds*, to ſatisfy the judgment which the ſaid C. D. may recover upon the aforeſaid trial. Fail not of appearance at your peril. Witneſs, W. C. Eſquire, at the day of in the year of our Lord

A. H. Clerk.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That where the Writ of *Audita Querela* ſhall be iſſued in the form of a Writ of Summons, the form thereof may be as followeth.

THE COMMONWEALTH OF MASSACHUSETTS,

(Seal.) ——— ſſ.

To the Sheriff of our County of his Underſheriff or Deputy, GREETING.

Form of a writ of ſummons to be iſſued.

WE command you that you ſummons A. B. of if he may be found in your precinct, to appear before

fore our Justices of our Court next to be holden at within and for our County of on the Tuesday of then and there in our said Court to answer to the grievous complaint of C. D. of who complaineth and saith *(Here let the declaration be inserted)* by all which the said C. D. as he saith is damaged the sum of *Pounds*, as shall then and there be made to appear. And have you there this Writ with your doings therein. Witness W. C. Esquire, at this day of in the year of our Lord

A. H. Clerk.

Where the sheriff or his deputy is a party.

SECT. 8. *And be it further enacted by the authority aforesaid*, That where the Sheriff of any county in which the Writ of *Audita Querela* is to be served, or his Deputy is a party to the said Writ, or to the Execution issued upon the Judgment recovered thereon, the same shall be directed to the Coroner or his Deputy, who shall serve and execute the same in due form of law. *And to avoid circuity of actions and a multiplicity of law suits:*

Complainant may declare for the same damages as he may recover by other subsequent action.

SECT. 9. *Be it further enacted by the authority aforesaid*, That where the complainant in any Writ of *Audita Querela* may, by other subsequent action at law, recover of the respondent any recompense in damages or otherwise, for the wrongs done him by the service of such execution for the setting aside and annulling of the proceedings upon which the said Writ of *Audita Querela* is brought, in all such cases the complainant may have the same remedy upon his Writ of *Audita Querela*, and in his declaration therein may declare for the same recompense in damages or otherwise, and judgment shall be rendered and execution issue thereupon accordingly.

How general issue may be pleaded.

SECT. 10. *And be it further enacted by the authority aforesaid*, That the general issue in all actions prosecuted on Writs of *Audita Querela* may be the plea of Not Guilty; and upon such plea being duly pleaded by the respondent, either party may give any special matter in evidence by which the truth and justice of the cause may be known.

Proviso.

Provided nevertheless, That the respondent may plead any special matter in bar or the said general issue, at his election.

In cases where said writ is returnable and judgment given in the Common Pleas, parties may appeal to the Supreme Judicial Court.

SECT. 11. *And be it further enacted by the authority aforesaid*, That in cases where the Writ of *Audita Querela* is returnable to the Inferior Court of Common Pleas in any county within this Commonwealth, and judgment given in said Court, the party aggrieved thereat may appeal to the Supreme Judicial Court of this Commonwealth, next to be holden within the same county; the said appeal to be granted and prosecuted under the same regulations and restrictions as appeals in other actions from the judgment of any Inferior Court are to be granted and prosecuted; and when the appellant shall fail to

to profecute his appeal with effect, the Supreme Judicial Court may, upon complaint filed by the appellee, affirm the judgment rendered by the Inferior Court with additional damages and coſts, and award execution accordingly.

And whereas the complainant in the Writ of *Audita Querela* may, at the time of ſueing out the ſame, be in gaol by virtue of the execution, the proceedings upon which the ſaid Writ of *Audita Querela* is brought, to ſet aſide and annul: And whereas in ſuch caſes the enlargement and liberation from gaol of the complainant may be neceſſary to enable him effectually to proſecute his ſaid Writ:

In caſe where the complainant is in gaol, the Court may liberate him.

SECT. 12. *Be it enacted by the authority aforeſaid*, That in caſes where the complainant in ſuch Writ of *Audita Querela* is in gaol by virtue only of ſuch execution, the Court to which ſuch Writ is returnable, or the Supreme Judicial Court upon the appeal, may, at their diſcretion, according to the circumſtances of the caſe, enlarge and liberate the complainant from gaol, and admit him to bail, upon his ſureties' (being ſufficient freeholders within the Commonwealth, to be approved of by the Court) giving bond, together with the complainant, jointly and ſeverally to the reſpondent, in ſuch penalty as ſhall be directed by the Court, conditioned, if final judgment be rendered for the reſpondent, that the complainant ſhall, within thirty days after the entering ſuch final judgment, ſurrender himſelf to the gaol-keeper, to be detained in cuſtody under the ſame execution, or within that time ſatisfy the ſame execution, and alſo ſuch final judgment as ſhall be rendered as aforeſaid for the reſpondent. And if the ſaid complainant ſhall ſurrender himſelf to the gaol-keeper as aforeſaid, he ſhall be in cuſtody under ſaid execution, as fully and to all intents and purpoſes, as if the ſaid Writ of *Audita Querela* had not been brought, nor the ſaid complainant admitted to bail.

All judgments redered by the Supreme Judicial Court, to be final by the ſaid writ.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That all judgments rendered by the Supreme Judicial Court in actions proſecuted by Writs of *Audita Querela*, ſhall be final, without being ſubject to reverſal or alteration by any proceedings upon Writs of Review thereafter to be ſued out or proſecuted, and all ſuch Writs of Review ſhall by the ſame Court *ex officio* be quaſhed.

[This Act paſſed *May* 18, 1781.

An ACT for granting to *Thaddeus Newton* One Hundred Acres of Land in the Town of *Murrayſfield*.

[This Act paſſed *June* 28, 1781.]

An

An ACT for reviving ſundry Laws that are expired.

[This Act paſſed *June* 28, 1781.]

An ACT to prevent Damage being done on the Meadows lying in the Townſhip of *Yarmouth*, called *Nobſcuſſett* Meadow; and a ſmall Commonage of Land, and Beaches thereto adjoining.

[This Act paſſed *June* 28, 1781. *Made perpetual, March* 7, 1797.]

An ACT for continuing a Company or Troop of Horſe, in the Third Regiment of Foot in the County of *Eſſex*.

[This Act paſſed *June* 28, 1781.]

An ACT for altering the Dividing Line between the Towns of *South-Hadley* and *Granby*.

[This Act paſſed *June* 28, 1781.]

An ACT to provide for the Security and Payment of the Balances due to the Officers and Soldiers of the *Maſſachuſetts* Line of the Army.

[This Act paſſed *July* 5, 1781.]

An ACT providing for the Payment of the Intereſt on the new Bills of Credit, and fixing the Rate at which they ſhall be received into the Treaſury; for ſuſpending the making up Judgment in Civil Cauſes for a limited Time; and repealing all the Laws heretofore paſſed for making ſaid Bills a Tender.

[This Act paſſed *July* 6, 1781.]

An

An ACT for ſetting off *Thomas Eaton*, with his Eſtate, from the Firſt Pariſh in the Town of *Reading*, and annexing him and his Eſtate to the Third Pariſh in ſaid Town.

[This Act paſſed *July* 6, 1781.]

An ACT to ſet off *Thomas Morſe*, and others, from the Weſt Pariſh in the Town of *Bradford*, in the County of *Eſſex*, and to annex them to the Eaſt Pariſh in ſaid Town.

[This Act paſſed *July* 6, 1781.]

An ACT in Addition to an Act, entitled, "An Act more effectually to puniſh Perſons who ſhall be convicted of wilfully and corruptly paſſing counterfeit Bills of Credit."

[This Act paſſed *September* 19, 1781.]

An ACT to regulate the Mode of Procedure in undiſputed Cauſes in the Maritime Courts.

[This Act paſſed *October* 10, 1781.]

An ACT in Addition to an Act, entitled, "An Act to empower the Treaſurer to receive Government Securities on Loan, to the amount of *Eight Hundred Thouſand Pounds*."

[This Act paſſed *October* 19, 1781.]

An ACT for incorporating the Proprietors of the Houſe erected for the Public Worſhip of God, called the Tabernacle, in *Salem*, where the Rever. end *Nathaniel Whitaker* now officiates.

[This Act paſſed *October* 27, 1781.]

An

An ACT for widening and amending the Streets, Lanes and Squares, in that Part of the Town of *Charleſtown*, which was lately laid waſte by Fire.

[This Act paſſed *October* 30, 1781.]

An ACT to incorporate certain Phyſicians, by the name of *The Maſſachuſetts Medical Society*.

[This Act paſſed *November* 1, 1781.]

An ACT for apportioning and aſſeſſing a Tax of £.303,634. 0*s*. 6*d*.

An ACT laying certain Duties of Exciſe on certain Articles therein mentioned, for the Purpoſe of Paying the Intereſt on Government Securities.

[This Act paſſed *November* 1, 1781.]

An ACT making Proviſion for the Payment in Specie of ſuch Demands on this Commonwealth, as have, or may hereafter be brought in, or allowed, in Bills of the New-Emiſſion; and for eſtabliſhing a Rule of Depreciation of ſaid Bills, from and after the Twenty-Seventh Day of *February*, in this preſent Year.

[This Act paſſed *November* 1, 1781.]

An ACT for Reviving and Continuing a Law of this Commonwealth, made in the Year of our Lord One thouſand ſeven hundred and ſeventy-three, entitled, "An Act for eſtabliſhing and regulating the Fees of the ſeveral Officers within this Province, hereafter mentioned."

[This Act paſſed *November* 1, 1781.]

An

An ACT to enable the Inhabitants and Proprietors of the Plantation called *Aſhuelet Equivalent*, in the County of *Berkſhire*, to tax themſelves for paſt and future Taxes that have been or may be laid upon them by the General Court of this Commonwealth.

[This Act paſſed *November* 2, 1781.]

An ACT making Proviſion for giving Permits to the Diſtillers and the Importers of thoſe Articles which are ſubject to an Exciſe Duty.

[This Act paſſed *November* 2, 1781.]

An ACT directing the Manner in which Money ſhall be raiſed and levied to defray the Charges which may ariſe within the ſeveral Counties in this Commonwealth.

Additional Act, Nov. 17, 1792.

WHEREAS by the Conſtitution of this Commonwealth, it is among other things eſtabliſhed, that "no ſubſidy, charge, tax, impoſt, or duty, ought to be eſtabliſhed, fixed, laid or levied, under any pretext whatſoever, without the conſent of the people or their repreſentatives in the Legiſlature," ſo that it is become neceſſary to make other proviſion than has been uſual for defraying county charges: Preamble.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the Juſtices of the Court of General Seſſions of the Peace, at the firſt Court which ſhall be held within each of the counties of this Commonwealth, next preceding the firſt day of *January* annually, ſhall make an eſtimate of ſuch ſum or ſums of money as they, according to their beſt ſkill and judgment, ſhall think ſufficient to defray the neceſſary charges of their reſpective counties for one year, ſpecifying as nearly as may be, the purpoſes for which ſuch ſum or ſums may be neceſſary, and which have been uſually conſidered as county charges; which eſtimate the Clerks of ſaid Court are hereby directed to lay before the General Court from time to time, at their next ſeſſion after ſuch eſtimate ſhall be formed, ſo that ſueh ſum as may be neceſſary for diſcharging the County charges of the ſeveral counties of this Commonwealth may be regularly laid on the inhabitants of each county reſpectively.

Juſtices of the Court of General Seſſions of the Peace in the ſeveral counties to make an eſtimate of ſuch ſums of money as are needful to defray the charge of their reſpective counties.

Clerks of ſaid Courts directed to lay ſaid eſtimates before the General Court.

SECT.

The Sums to be apportioned on the several Towns, and by the Assessors to be assessed, &c.

Unless.

SECT. 2. *And be it enacted by the authority aforesaid*, That the sums which shall from time to time be granted or laid on the several counties within this Commonwealth by the General Assembly, for the purposes aforesaid, shall by the Justices aforesaid be apportioned on the several towns and places within the respective counties, and by the Assessors shall be assessed, and by the Collectors or Constables collected, and paid in like manner as county taxes have been used and accustomed to be apportioned, assessed, collected and paid, agreeable to the laws of this Commonwealth, unless in such cases where the same shall be otherwise ordered by any Act of the General Assembly.

[This Act passed *November* 2, 1781.]

An ACT for apprehending and securing Deserters from the Continental Army; and from the Fleets and Armies of our Allies; and for repealing all Acts heretofore made and passed for that Purpose.

[This Act passed *November* 2, 1781.]

An ACT in Addition to an Act, entitled, "An Act to provide for the Security and Payment of the Balances due to the Officers and Soldiers of the *Massachusetts* Line of the Army."

[This Act passed *February* 11, 1782.]

An ACT for explaining and altering a certain Clause in the last Tax-Act, with regard to the Rule given for estimating Estates, and for pointing out the Qualification of Voters in Town-Affairs.

Preamble.

WHEREAS in and by an Act made in the Year of our Lord One thousand six hundred and ninety-two, entitled, "An Act for regulating of Townships, Choice of Town Officers and setting forth their Power," it is enacted, that the freeholders and inhabitants of each town, who are rateable at *Twenty Pounds* estate in one single rate, besides the poll, are empowered to assemble and to give their votes in the choice of town officers, in the month of *March* annually; the mode for estimating of estates being more fully pointed out in an additional Act, made in the Year of our Lord One thousand seven hundred and forty-two: But whereas the mode of estimating estates given for the direction of Assessors in the last Tax Act, is very materially different from the mode prescribed

prescribed in said Acts, which was not designed nor intended to alter the qualification of voters as provided by the Acts aforesaid:

Be it therefore enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That every person who is an inhabitant within any town in this Commonwealth, who shall pay to one single tax, besides the poll or polls, a sum equal to two-thirds of a single poll tax, shall be, and hereby is entitled to all the privileges, with regard to voting in any town-affairs, as voters are entitled to by the Acts aforesaid. *Provided nevertheless,* That where tenants live in the same town with the landlord, the real estate shall not be counted to the tenant; the clause in the Tax-Act to the contrary notwithstanding: And all Selectmen and Moderators are hereby directed to govern themselves accordingly.

What persons are entitled to vote in Town Affairs in this Commonwealth.

Proviso.

[This Act passed *February* 20, 1782.]

An ACT for altering the Time for holding the Supreme Judicial Court in the County of *Bristol.*

[This Act passed *March* 4, 1782.]

An ACT for repealing the several Laws prohibiting the Exportation of Provisions, and Masts and Spars out of this State.

[This Act passed *March* 4, 1782.]

An ACT for apportioning and assessing a Tax of £.200,000.

[This Act passed *March* 5, 1782.]

An ACT for granting a Lottery for erecting a Bridge over *Chekebee* River, on the Road leading from *Springfield* to *Hadley*, in the County of *Hampshire.*

[This Act passed *March* 6, 1782.]

An ACT in Addition to three several Acts, one entitled, "An Act to supply the Treasury with the Sum of *Four Hundred Thousand Pounds* Money;" another entitled, "An Act to empower the Treas-

urer to receive Government Securities on Loan to the Amount of *Eight Hundred Thouſand Pounds ;*" and one other Act, entitled, " An Act in Addition to an Act, entitled, " An Act to empower the Treaſurer to receive Government Securities on Loan to the Amount of *Eight Hundred Thouſand Pounds.*"

[This Act paſſed *March* 6, 1782.]

An ACT more effectually to prevent the Deſertion of *French* Sailors.

[This Act paſſed *March* 6, 1782.]

An ACT for continuing a Law of this Commonwealth made in the Year of our Lord One thouſand ſeven hundred and ſeventy-three, entitled, " An Act for eſtabliſhing and regulating the Fees of the ſeveral Officers within this Province hereafter mentioned," which Act was revived by an Act paſſed the laſt Seſſion of the General Court to continue the ſame to the End of the preſent Seſſion.

[This Act paſſed *March* 7, 1782.]

An ACT in Addition unto and for amending and explaining the Act made in the Year One thouſand ſeven hundred and eighty-one, laying certain Duties of Exciſe on certain Articles therein mentioned, for the Purpoſes of Paying the Intereſt on Government Securities.

[This Act paſſed *March* 7, 1782.]

An ACT for the Eſtabliſhment of a National Bank ; and for preventing the Eſtabliſhment of every other Bank ; and to prevent the paſſing of forged Bank Bills.

[This Act paſſed *March* 8, 1782.]

An

An ACT to incorporate the Committee of the Congregational Church and Society in the Town of *New-Salem*, for certain Purpoſes.

[This Act paſſed *May* 3, 1782.]

An ACT providing a more ſpeedy Method of recovering Debts, and for preventing unneceſſary Coſts attending the ſame.

[This Act paſſed *May* 3, 1782. *Repealed October* 19, 1782.]

An ACT for granting to the United States in Congreſs aſſembled, a permanent Revenue, for the Purpoſe of diſcharging the Debts which have ariſen, or may ariſe, in proſecuting the preſent War with Great-Britain.

[This Act paſſed *May* 4, 1782.]

An ACT for eſtabliſhing a Court of General Seſſions of the Peace, and Court of Common Pleas for the County of *Cumberland*, to be holden at *Falmouth* in ſaid County, on the laſt Tueſday of *May* annually; and for diſcontinuing the Courts which are by Law appointed to be holden for ſaid County on the laſt Tueſday of *March* annually.

[This Act paſſed *May* 6, 1782.]

An ACT for raiſing by Lottery the Sum of *Twelve Hundred Pounds*, for the Purpoſe of building a Paper-Mill, and promoting the Manufactory of Paper in *Milton*.

[This Act paſſed *May* 7, 1782.]

An ACT empowering the Court of General Seſſions of the Peace in the County of *Cumberland*, to lay out a County Road through the Plantations of *Bridgetown*, *Raymondtown* and *Otisfield*.

[This Act paſſed *May* 7, 1782.]

An ACT for further continuing a Law of this Commonwealth, made and paſſed in the Year of our Lord One thouſand ſeven hundred and ſeventy-three, entitled, "An Act for eſtabliſhing and regulating the Fees of the ſeveral Officers within this Province hereafter mentioned."

[This Act paſſed *May* 9, 1782.]

An ACT for dividing the Town of *Wilbraham* into two ſeparate Pariſhes.

[This Act paſſed *June* 20, 1782.]

An ACT to ſuſpend the Privilege of the Writ of *Habeas Corpus* for ſix Months.

[This Act paſſed *June* 27, 1782.]

An ACT for incorporating certain interval Lands belonging to certain inhabitants of *Springfield*, and *Weſt-Springfield*, lying on the Weſt Side of *Connecticut* River, and on both Sides *Agawam* River, into a common Field.

[This Act paſſed *June* 27, 1782.]

An ACT for naturalizing *Michael Cunningham* and *John Preſcott*.

[This Act paſſed *June* 27, 1782.]

An ACT for eſtabliſhing and regulating the Fees of the ſeveral Officers and other Perſons hereafter mentioned.

[This Act paſſed *June* 27, 1782.]

An ACT for dividing the Town of *Sanford*, in the County of *York*, into two Pariſhes.

[This Act paſſed *July* 1, 1782.]

An ACT for erecting a Diſtrict in the County of *Eſſex*, by the Name of *Lynnfield*.

[This Act paſſed *July* 3, 1782.]

An

An ACT againſt Blaſphemy.

BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame, That if any perſon ſhall wilfully blaſpheme the holy name of GOD, by denying, curſing, or contumelioufly reproaching GOD, his creation, government, or final judging of the world, or by curſing, or reproaching JESUS CHRIST, or the HOLY GHOST, or by curſing, or contumelioufly reproaching the holy Word of GOD, that is, the canonical ſcriptures, contained in the books of the Old and New Teſtaments, or by expoſing them, or any part of them, to contempt and ridicule; which books are as follows: *Geneſis, Exodus, Leviticus, Numbers, Deuteronomy, Joſhua, Judges, Ruth, Samuel, Samuel, Kings, Kings, Chronicles, Chronicles, Ezra, Nehemiah, Eſther, Job, Pſalms, Proverbs, Eccleſiaſtes, the Song of Solomon, Iſaiah, Jeremiah, Lamentations, Ezekiel, Daniel, Hoſea, Joel, Amos, Obadiah, Jonah, Micah, Nahum, Habakkuk, Zephaniah, Haggai, Zechariah, Malachi, Matthew, Mark, Luke, John, Acts, Romans, Corinthians, Corinthians, Galatians, Epheſians, Philippians, Coloſſians, Theſſalonians, Theſſalonians, Timothy, Timothy, Titus, Philemon, Hebrews, James, Peter, Peter, John, John, John, Jude, Revelations,* every perſon ſo offending, ſhall be puniſhed by impriſonment not exceeding twelve months, by ſitting in the pillory, by whipping, or by ſitting on the gallows, with a rope about the neck, or binding to the good behaviour, at the diſcretion of the Supreme Judicial Court before whom the conviction may be, according to the aggravation of the offence.

Perſons convicted of blaſphemy.

How puniſhed.

[This Act paſſed *July* 3, 1782.]

An ACT eſtabliſhing a Supreme Judicial Court within the Commonwealth.

Addit. Act, March 11, 1797.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That there ſhall be a Supreme Judicial Court within this Commonwealth, to be held and kept at the ſeveral times and places by law appointed, by one Chief Juſtice and four other Juſtices, each of whom ſhall be an inhabitant of this Commonwealth, of ſobriety of manners and learned in the law, to be appointed and commiſſioned as is by the Conſtitution provided; and they, or any three of them, ſhall be a Court, and have cognizance of pleas real, perſonal, and mixed; and of all civil actions between party and party, and between the Commonwealth and any of the ſubjects thereof, whether the ſame do concern the realty, and relate to right of freehold, inheritance, or poſſeſſion; whether the ſame do concern the perſonalty, and relate to any matter of debt, contract, damage, or perſonal injury; and alſo all mixed actions which do concern

Supreme Judicial Court, &c. their conſtitution and power.

cern the realty and perſonalty brought legally before the ſame Supreme Judicial Court, by appeal, review, writ of error, or otherwiſe; and in all ſuch actions, real, perſonal, and mixed, to give ſuch judgment, and award ſuch execution, as the common rules of juſtice and laws of this Commonwealth ſhall direct; and ſhall take cognizance of all capital and other offences and miſdemeanours whatſoever, of a public nature, tending either to a breach of the peace, or the oppreſſion of the ſubject, or raiſing of faction, controverſy, or debate, to any manner of miſgovernment; and of every crime whatſoever that is againſt the public good; and ſhall, by virtue of their office, be ſeverally conſervators of the peace throughout the Commonwealth. And upon all perſons duly and legally convicted before the ſaid Court, of crimes, offences, or miſdemeanours, to inflict ſuch puniſhment as by the laws of the Commonwealth is provided. And in caſe of legal conviction, where no puniſhment by ſtatute law is provided, then the ſaid Court ſhall puniſh the perſon ſo convicted, and according to the common uſage and practice within this Commonwealth, not repugnant to the Conſtitution, according to the nature of the offence.

SECT. 2. *And be it further enacted*, That the ſame Supreme Judicial Court may, by certiorari or other legal methods, cauſe to be brought before them as well indictments or other criminal proſecutions pending in, as the records of ſentences, orders, decrees, and judgments of any court of inferior criminal juriſdiction, and to proceed, order, and award thereon, as ſhall be by law provided and directed. And the ſaid Supreme Judicial Court is empowered to impoſe and adminiſter all oaths, as well thoſe that are neceſſary for promoting juſtice between party and party, as thoſe neceſſary to the conviction and puniſhment of offenders; and to puniſh, at the reaſonable diſcretion of the Court, all contempts committed againſt the authority of the ſame: And the ſaid Court ſhall have power to iſſue all writs of prohibition and mandamus, according to the law of the land, to all courts of inferior judiciary powers, and all proceſſes neceſſary to the furtherance of juſtice, and the regular execution of the laws.

All writs and proceſſes to be in the name of the Commonwealth of Maſſachuſetts.

SECT. 3. *And it is further enacted*, That all writs and proceſſes of the ſame Court ſhall be in the name of the Commonwealth of Maſſachuſetts, bear teſt of the firſt Juſtice who is not a party to the ſuit, and ſhall be under the ſeal of the ſame Court, and ſigned by the Clerk.

The Supreme Judicial Court to regulate the admiſſion of attornies.

SECT. 4. *And it is further enacted*, That the ſame Supreme Judicial Court ſhall and may, from time to time, make, record, and eſtabliſh all ſuch rules and regulations with reſpect to the admiſſion of Attorneys, ordinarily practiſing in the ſaid Court, and the creating of Barriſters at Law, and all other rules reſpecting modes of trial, and the conduct of buſineſs, as the diſcretion of the ſame Court ſhall dictate. *Provided always*, That ſuch rules and regulations be not repugnant to the laws of the Commonwealth.

Proviſo.

SECT.

SECT. 5. *And it is further enacted*, That the Juſtices of the ſaid Supreme Judicial Court, or any three of them, ſhall be empowered to adjourn the ſame Court, from time to time, as may be neceſſary to the public good. And when it ſhall ſo happen, that any of the Juſtices of the ſaid Court ſhall providentially be detained from attending at the time when the ſame Court, by law, or by any previous adjournment, is to be held, by means whereof there cannot be a competent Court, any two Juſtices of the ſame Court may, by writ under their hands and ſeals, adjourn the ſame Court to ſuch further day as ſhall be expreſſed in the ſame writ; and the Sheriff of the county, or his deputy, ſhall read ſuch writ audibly in the court-houſe, or place where the Court was to be holden, and poſt up an atteſted copy thereof in ſome public and conſpicuous place there, and ſhall cauſe publication to be made of the ſame in ſome other of the moſt public places in the county. And the Juſtices of the Supreme Judicial Court ſhall, from time to time, appoint a Clerk, or Clerks, to attend ſaid Court, and to record the proceedings thereof, and to do all other things which ſhall be by law their duty to do; which Clerk, or Clerks, ſhall be duly ſworn to the faithful performance of their office, and ſhall hold the ſame during the pleaſure of the ſaid Court.

The Juſtices of ſaid Court empowered to adjourn. In caſe.

Juſtices of ſaid court to appoint a clerk or clerks.

To be ſworn.

[This Act paſſed *July* 3, 1782.]

An ACT directing the Appraiſement of certain Articles of Perſonal Eſtate, when taken to ſatisfy Executions at the Suit of any private Perſon or Perſons.

[This Act paſſed *July* 3, 1782.]

An ACT eſtabliſhing Courts of Common Pleas.

Further Act, June 27, 1798.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That there ſhall be held and kept within each county of this Commonwealth, at the times and places by law appointed, a Court of Common Pleas, by four ſubſtantial, diſcreet, and learned perſons, each of whom to be an inhabitant of the county wherein he ſhall be appointed; which perſons ſhall be appointed and commiſſioned by the Governor, as is provided by the Conſtitution, and they, or any three of them, ſhall be a Court, and have cognizance of all civil actions of the value of more than *Forty Shillings*, ariſing or happening within their county, triable by common or ſtatute law, of what nature or ſpecies ſoever the ſame may be, and ſhall be fully empowered, when qualified as the Conſtitution directs, to give judgment, and award execution accordingly, and to adminiſter all neceſſary

Inferior Courts conſtitution and power.

necessary oaths, and to do and order whatsoever by the Constitution and laws shall be their duty to do. And all writs and processes issuing from the several Courts of Common Pleas, shall be in the name of the Commonwealth of Massachusetts, bear test of the first Justice who is not a party, and be under the seal of the Court, and signed by the Clerk thereof, and shall have force, be obeyed and executed, in every county within the Commonwealth. And all original processes in the said Courts shall be summon capias or attachment, which shall be served and executed fourteen days before the day of the sitting of the Court whereinto they are returnable.

All writs and processes to be in the name of the Commonwealth of Massachusetts.

And to be summon capias or attachment.

Parties aggrieved may appeal to the Supreme Judicial Court.

SECT. 2. *And be it further enacted*, That any party aggrieved at the judgment of the Court of Common Pleas, upon any action, may appeal therefrom to the next Supreme Judicial Court to be held within or for the same county; and the party so appealing, before his appeal shall be allowed, shall recognize to the adverse party in a reasonable sum to prosecute his appeal with effect, and to pay all intervening damages and cost; and no execution shall be issued by the Court of Common Pleas upon the judgment appealed from.

Appellants to produce attested copies of the writ------

Upon neglect of the appellants-----

SECT. 3. *And be it enacted*, That the appellant shall produce at the Court appealed to, attested copies of the writ, judgment, and all papers and evidence filed in the case at the Common Pleas; and if any appellant shall neglect to produce such copies, or shall fail to prosecute his appeal, the Supreme Judicial Court shall, upon complaint thereof made by the appelle, affirm the former judgment, with additional damages and cost. And the Justices of the said Court of Common Pleas shall have power from time to time to make and establish all necessary rules for the orderly conducting of business in the same Court, provided such rules are not repugnant to the laws of the Commonwealth, or to those rules established by the Supreme Judicial Court.

Justices to establish necessary rules for business.

The said court to have power to adjourn.

In case.

SECT. 4. *And it is further enacted by the authority aforesaid*, That the Court of Common Pleas shall have power to adjourn the same, from time to time, as may be necessary for the public good. And when it shall so happen, that any of the Justices of the said Court shall be deceased, or shall be providentially detained from attending at the time and place at which said Court, by law, or by any previous adjournment, was to have been held, by means whereof there cannot be more than two of the said Justices present, then in such case, any two of the Justices of the same Court being there present, shall, by writ under their hands and seal, adjourn the same Court unto a further day, expressed in such writ; and the Sheriff of the county, or his deputy, shall read the same writ in the court-house, or place where such Court was to have been holden, and shall place an attested copy of the same writ up in some

ſome public and conſpicuous place there, and ſhall cauſe publication thereof to be made in ſome other of the moſt public places in the county. And the Juſtices of the ſaid Court of Common Pleas ſhall have power, from time to time, to appoint a Clerk to attend them, and record their proceedings; which Clerk ſhall be under oath to the faithful performance of the duties of his office, and ſhall hold his office during the pleaſure of the ſaid Court.

The Juſtices empowered to appoint a clerk.

Said clerk to be under oath.

SECT. 5. *And it is further enacted*, That the Petit-Jurors in the Court of General Seſſions of the Peace and Court of Common Pleas, to be held within and for the county of Suffolk, ſhall not be obliged to give their attendance until the ſecond Tueſday of ſaid Court's ſitting; and at the ſaid Courts to be held in all other counties, upon the ſecond day of the ſaid Court's ſitting, and veniries ſhall be iſſued accordingly.

The time for the petit jurors to give their attendance.

SECT. 6. *And it is alſo enacted*, That no action ſhall be entered at any Court of Common Pleas, after the firſt day of the ſitting thereof; and all pleas in abatement to the writ, and demurrers to declarations, ſhall be made, ſigned, and filed, before the Jury is impannelled.

No action to be entered after the firſt day of the ſitting of ſaid court.

Provided nevertheleſs, That where, by any inevitable misfortune or accident, the plaintiff ſhall be prevented from entering his action upon the firſt day of the Court's ſitting, he may, upon making the ſame appear to the Court, enter his action at any time before judgment is given for coſt to the defendant.

Proviſo.

[This Act paſſed *July* 3, 1782.]

An ACT for the better regulation of the Treaſury of this Commonwealth; and for appointing an Aſſiſtant-Treaſurer.

[This Act paſſed *July* 3, 1782.]

An ACT in Addition unto an Act, entitled, "An Act for laying certain Duties of Exciſe on certain Articles therein mentioned, for the Purpoſe of paying the Intereſt on Government Securities;" and for altering another Act, entitled, "An Act in Addition unto, and for amending and explaining the Act made in the Year One thouſand ſeven hundred and eighty-one, laying certain Duties of Exciſe on certain Articles therein mentioned, for the Purpoſe of paying the Intereſt on Government Securities."

[This Act paſſed *July* 3, 1782.]

An ACT for eſtabliſhing Courts of General Seſſions of the Peace.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That there ſhall be held in each county in this Commonwealth, at the times and places by law appointed, a Court of General Seſſions of the Peace, by the Juſtices of each county, who are hereby empowered to hear and determine all matters relative to the conſervation of the peace, and the puniſhment of ſuch offences as are cognizable by them at common law, or by the acts and laws of the Legiſlature, and to give judgment, order, or ſentence thereon, as the law directs, and to award execution accordingly.

General Seſſions of the Peace, their conſtitution and power.

SECT. 2. *And be it further enacted by the ſame authority,* That the warrants and proceſſes of the ſaid Court of General Seſſions of the Peace, for the apprehending and bringing to trial any perſon againſt whom an indictment is found, or a complaint filed in the ſame Court, for any crime whereof the ſame Court hath cognizance, ſhall be under the ſeal of the Court, ſhall be ſigned by their Clerk, and run into, and be executed in any county of the Commonwealth.

Warrants and proceſſes to be under the ſeal of the court, ſigned by the clerk.

SECT. 3. *And be it further enacted,* That any perſon againſt whom a ſentence ſhall be given, in the Court of General Seſſions of the Peace, may appeal therefrom unto the Supreme Judicial Court, then next to be holden within or for the ſame county. *Provided,* That no appeal ſhall be granted, unleſs it be claimed at the time of declaring the ſentence, and unleſs the appellant ſhall, before the riſing of the Court, recognize to the Commonwealth, and, where by the ſentence a forfeiture accrues to a ſubject, to him, in a reaſonable ſum, with ſurety or ſureties, for his perſonal appearance at the Court appealed to, and for the proſecution of his appeal there with effect, and to abide the ſentence therein given, and to keep the peace, and be of good behaviour in the mean time; and the party appealing ſhall be in cuſtody, until he ſhall ſo recognize; and the party appealing ſhall produce at the Court appealed to, a copy of the ſentence given againſt him, with a copy of all other proceedings had in the cauſe, and ſhall enter his appeal, and pay all ſuch fees in the ſaid Supreme Court as ſhall be by law provided in other cauſes: And if he ſhall fail in the proſecution of his appeal, or in any of the particulars beforementioned, his recognizance ſhall be forfeited; and the Supreme Judicial Court ſhall award ſuch ſentence againſt him, for the offence whereof he is charged, as they ought to do in caſe he ſtood convicted by verdict of a jury in ſaid Court; and may grant a capias to bring him into Court to receive ſuch ſentence.

Appeal from the ſentence to the Supreme Judicial Court.

Proviſo.

SECT.

SECT. 4. *And be it further enacted by the authority aforesaid,* That the said Court of General Sessions of the Peace shall have power to adjourn the same, from time to time, as may be necessary for the public good; and to appoint a Clerk to attend said Court, and to record the proceedings thereof; which Clerk shall be duly sworn to the performance of the duties of his office; and shall hold the same during the pleasure of the said Court. The court empowered to adjourn; and to appoint a clerk to be under oath.

[This Act passed *July* 3, 1782.]

An ACT to remove the Obstructions, and open Passage-Ways for the Fish called Alewives, Shad, and other Fish, up Neponset-River.

[This Act passed *July* 3, 1782.]

An ACT to appropriate *Forty Thousand Pounds* of the Continental Tax of *Two Hundred Thousand Pounds*, for obtaining a Loan of *Twenty Thousand Pounds*, and for the Security and Payment of the same.

[This Act passed *July* 5, 1782.]

An ACT to repeal a certain Clause in an Act made and passed in the Year of our Lord One thousand seven hundred and eighty-two, entitled, "An Act for apportioning and assessing a Tax of *Two Hundred Thousand Pounds*;" and for certain other Purposes hereafter mentioned.

[This Act passed *July* 5, 1782.]

An ACT for granting a Lottery for repairing the Bridge over the River Parker, in the County of Essex.

[This Act passed *October* 2, 1782.]

An

An ACT directing and regulating the Proceſs of Outlawry.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That when any perſon that now is charged, or hereafter ſhall ſtand charged, of any criminal offence before the Supreme Judicial Court of this government, by the indictment or preſentment of a Grand Jury, whether the ſame indictment or preſentment be originally found in that Court, or removed thither from any inferior juriſdiction, by appeal, or writ of certiorari, ſhall abſcond to avoid anſwering, or abiding and performing, the judgment that may be given thereon, whether ſuch abſconding be before or after the Jury ſhall indict or preſent the offender, a writ ſhall iſſue to the Sheriff of the county where ſuch offender was an inhabitant or reſident at the time of finding the ſame bill, directing him to *make known* unto ſuch offender, that unleſs he ſhall appear on the firſt day of the next ſitting of the ſaid Supreme Judicial Court, and there traverſe the ſame charge, and abide the judgment that may be given thereon, or appear and give ſuch ſecurity therefor, by way of recognizance, as the ſaid Court ſhall order, ſuch perſon will then and there be declared an *Outlaw*, and be ſubjected to all the penalties and diſabilities in this Act declared to be incident to a perſon under ſentence of *Outlawry*. And the mode of executing the ſaid writ of *Scire Facias*, ſhall be by leaving an authenticated copy thereof, certified by the Sheriff, at the offender's dwelling-houſe, or laſt place of abode, ſixty days at the leaſt before the ſame proceſs ſhall be returnable, and ſhall cauſe an abſtract or notification of the ſubject-matter in the ſame writ mentioned, ſixty days before the return day, at the leaſt, to be printed in one of the moſt public weekly newſpapers, and to be continued five ſeveral weeks incluſive, and ſhall cauſe him to be publickly called, in every Court of General Seſſions of the Peace in his county, that ſhall be holden while the ſame proceſs ſhall be in his cuſtody; which writ of *Scire Facias* being ſerved and returned in manner aforeſaid, and filed in Court, ſhall be entered on the docket, and the party againſt whom the ſame iſſued, after having been publickly called in the ſaid Supreme Judicial Court, to appear and anſwer the charge alleged againſt him as aforeſaid; if he ſhall not appear upon ſuch notice and proclamation, his default ſhall be recorded, and ſuch offender may by the ſame Court be declared an *Outlaw*, without any other act or ceremony: Any former law, uſage, or cuſtom to the contrary notwithſtanding.

Perſons abſconding who ſhall ſtand charged of criminal offences before the Supreme Judicial Court by indictment.

A writ to be iſſued to the Sheriff of the county where ſuch offender was an inhabitant.

That unleſs he appears, to be declared an outlaw.

The mode of executing the writ Scire-facias.

Proviſo.

Provided always, It ſhall be in the power of the ſaid Court, when the offence charged ſhall be by law bailable, to continue the

the ſame *Scire Facias*, or ſuſpend paſſing judgment of Outlawry thereon, until the next or ſome ſucceeding term, in caſe ſufficient bail ſhall be given for the offender's anſwering and abiding the judgment of the ſaid Court thereon. And that it may regularly and certainly be determined when a perſon may be ſaid to have abſconded to eſcape puniſhment,

What evidence ſhall be ſufficient when perſons after having appeared and plead to an indictment, who ſhall depart without leave of the court, &c.

SECT. 2. *Be it further enacted*, That any perſon, after having appeared and plead to an indictment or preſentment, who ſhall have departed without leave of the Court, or ſhall have broken gaol after commitment upon, and before conviction on, the charge alleged in the bill, or ſhall fail or neglect to appear and anſwer according to the tenor of a recognizance regularly taken for that purpoſe, or when the Sheriff of the ſame county whereof the offender was an inhabitant or reſident, at the time of his committing the offence for which he ſhall ſtand indicted, or his deputy, ſhall make return upon a *Capias* iſſued in conſequence of the bill, wherein the term of four months, at the leaſt, ſhall have elapſed between the iſſuing the *Capias* and the return day thereof, *That after making diligent ſearch and inquiry after ſuch offender, he could not find him in his precinct*, ſhall be deemed and taken as ſufficient evidence of the abſconding of ſuch perſon, within the intent of this Act.

SECT. 3. *And be it further enacted*, That a *Capias* and an *alias Capias* iſſued from the Court of General Seſſions of the Peace, on a bill of indictment or preſentment there found, wherein fifty days, at the leaſt, ſhall have elapſed between the iſſuing and return of the ſame writs reſpectively, and returned by the proper officer, that after diligent ſearch and inquiry after ſuch offender, he could not find him in his precinct (before the removal of the record into the Supreme Judicial Court) ſhall render the iſſuing a like proceſs in the Supreme Judicial Court before *Scire Facias* ut legatum unneceſſary.

When a Capias ſhall iſſue from the Supreme Judicial Court for the apprehending of an offender.

SECT. 4. *And be it further enacted*, That where a *Capias* ſhall iſſue from the Supreme Judicial Court, to apprehend an offender on a bill of indictment or preſentment, in any county where the ſaid Court ſhall be held but once a year, the ſame *Capias* may be made returnable to ſome ſeſſion of the ſaid Court in ſome other county, at the expiration of five or ſix months, if the ſaid Court ſhall ſo order, to the end *Scire Facias* ut legatum may timely iſſue returnable to the next term, if the offender ſhould not be taken on the *Capias*.

Perſons againſt whom judgment of outlawry ſhall be given diſabled from bringing any action or ſuit in any law court, excepting; and to forfeit the iſſues of his real eſtate.

SECT. 5. *And be it further enacted*, That all perſons againſt whom judgment of *Outlawry* ſhall be given, ſhall, during the time the ſame judgment ſhall continue in force, be and hereby are diſabled from bringing or maintaining in their own right, any civil action or ſuit, in any Court of law or equity within this government, excepting a writ of error for reverſing his Outlawry, and ſhall be under ſuch other diſabilities and diſqualifications in civil ſociety as a perſon convicted and ſentenced

tenced for the offence charged in the bill upon which he may be *outlawed:* And in all cases where a greater forfeiture does not by law accrue to the Commonwealth upon a conviction and judgment on such bill of indictment, shall forfeit the issues and profits of all his real estate during the life of the *Outlaw*, in case the judgment of *Outlawry* shall so long remain in force, and be further liable to be apprehended upon *Capias* ut legatum, and sentenced in the same manner as if he was convicted by a Jury of the charge alleged in the bill.

The real estate of persons outlawed to be liable to respond the judgment given relating to fines and costs.

SECT. 6. *And be it further enacted*, That the real estate of every person outlawed, shall be held liable, and be bound, from the time of issuing the *Scire Facias* ut legatum to respond the judgment that shall be given on the indictment or presentment, so far as relates to the fine and cost.

SECT. 7. *And be it further enacted by the authority aforesaid*, That the lands and tenements of all persons recognizing to the use of this government, before any authority duly authorised and empowered to take the same, are, and shall be, liable to respond the sum mentioned in the same recognizance, from the time the same is taken and acknowledged, notwithstanding any transfer or alienation thereof.

Offenders outlawed upon their appearing in court and confessing the charge and receiving sentence, to be acquitted. In such cases.

SECT. 8. *And be it further enacted*, That every offender that may be outlawed, upon his appearing in open Court, and confessing the charge, and receiving sentence thereon, or appearing and traversing the charge, shall be acquitted by a Jury, or on demurrer, or any other plea, the same shall be adjudged insufficient in law to compel the person accused to answer thereunto, or support a judgment thereon: In every such case, the proceeding shall be construed to operate as a full and effectual reversal of the judgment of Outlawry, as though a formal reversal had been given upon a writ of error expressly brought for that purpose. *Provided* the appearance upon which such acquittal shall be given shall be voluntary and without compulsion, and within one year and a day after judgment of Outlawry shall be pronounced, and the cost accruing on the Process of Outlawry shall be first satisfied and paid.

Proviso.

[This Act passed *October* 2, 1782.]

An ACT to create and erect a Corporation by the Name of—*The Trustees of* Dummer *Academy*, in the County of *Essex*.

[This Act passed *October* 3, 1782.]

An

An ACT for the repealing of one Act of this Commonwealth, made and passed on the third day of *May* last, entitled, "An Act providing a speedy Method of recovering Debts, and for preventing unnecessary Costs attending the same;" and for making other Provision which may better answer the Ends designed by the said Act.

WHEREAS among other defects in the said Act, there is no certain future day set therein after the day of the acknowledgment of the debt (proposed to be taken) for the payment of the same, or for issuing the writ for the levying thereof: Preamble.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the said Act, entitled as aforesaid, be, and hereby is repealed; and that every part thereof be hereafter held and taken to be null and void. And that from and after the first day of December, One thousand seven hundred and eighty-two, every Justice of the Peace for any county in this Commonwealth shall severally have power and authority, within his county, to take recognizances for the payment of debts, of any person or persons (by law capable of binding him or herself) who shall come before him for that purpose, according to such form, or according to the effect and meaning of such form as hereafter ensueth, *That is to say,* An Act passed 3d May last repealed. Justices of the Peace empowered to take recognizances for the payment of debts.

Know all Men that I, C. D. of in the County of do owe unto E. F. the Sum of of the Lawful Money of *Massachusetts*, to be paid to the said E. F. on the Day of 17 and if I shall fail of the Payment of the Debt aforesaid, by the Time aforesaid, I will, and grant, that the said Debt shall be levied of my Goods and Chattels, Lands and Tenements, and in want thereof, of my Body. Dated at this Day of in the Year of our Lord, 17

Witness my Hand and Seal,

ff. C. D.

Acknowledged the Day and Year last aforesaid,

Before A. B. Justice of the Peace. Form of the recognizance.

SECT. 2. *And be it further enacted by the authority aforesaid,* That every such recognizance shall be made and written on a piece of paper or parchment; and the Justice of the Peace taking the same shall, immediately, cause it to be fairly recorded at large, in a book to be therefor by him provided and kept; which original recognizance, after the same shall be recorded as is above directed, at the request of the consee or consees, or Recognizances to be made and written and recorded at large.

or of the perſon or perſons to whom the remedy or executive proceſs on ſuch recognizance ſhall by law accrue (in caſe of the deceaſe of any or all of them) ſhall be delivered to him or them ſo requeſting it. And every conuſee or conuſees, his or their legal repreſentative or repreſentatives, for default of the payment of the debts contained in ſuch recognizances, or any part of ſuch debts by the time therein ſet and expreſſed for the payment thereof, ſhall have in every point, reſpect and degree, againſt the conuſor or conuſors, the ſurvivor or ſurvivors of them, his or their heirs, executors and adminiſtrators, and the heirs, executors or adminiſtrators of the laſt ſurvivor of ſuch conuſors (where there ſhall be ſuch) the like proceſs or proceſſes, action and remedy, execution or executions, alias and pluries, as hath been hitherto had, uſed and accuſtomed, and may at this time be lawfully had, uſed, done, or made againſt them reſpectively, of and upon a judgment of any court of record in this Commonwealth on an action of debt in full force, unreverſed and not ſatisfied. And for the ſpeedy obtaining of ſuch debts, the Juſtice of the Peace who took ſuch recognizance, at any time within three years from and after the day ſet and expreſſed therein for the payment of the debt or any part thereof expreſſed in ſuch recognizance, at the requeſt of the conuſee or conuſees, named therein, or in caſe of their death, at the requeſt of the perſon or perſons to whom the remedy or choſe in action thereon, ſhall be caſt by law; and upon his or their producing and delivering to him ſuch original recognizance uncancelled, and without any receipt of payment or ſatisfaction of the ſum alleged to be then payable and due, underwritten or indorſed, and lodging the ſame with the ſaid Juſtice, he ſhall award and make out on ſuch recognizance a writ or proceſs of execution for the levying of the whole ſum, which, by ſuch recognizance and the receipts (if any there be) entered thereon, appear to be then due and payable, of the ſame nature and effect, againſt the body or bodies, and eſtate real and perſonal of the conuſor or conuſors, as by the laws of this Commonwealth a judgment-creditor is entitled to have for the levying and ſatisfying any ſum or ſums of money, recovered and due to him, by the judgment of any court of record in this Commonwealth, on an action of debt in full force. And ſuch proceſs for the execution of ſuch recognizance, may and ſhall be directed to, executed and returned by, all and any ſuch officer and officers as the writ or proceſs for the execution of the judgment of any court of record, by the laws of this Commonwealth, may and ought to be directed to, and returned by. And all and every ſuch officer and officers for any town or county in this Commonwealth, ſhall have the like powers and authority, and ſhall be under the like obligations in all reſpects and regards whatſoever, to execute and return ſuch writ or proceſs made upon ſuch recognizance by

In caſe of default—

For the ſpeedy obtaining of ſuch debts.

How the proceſs for the execution of recognizances ſhall be directed.

by such Justice of the Peace empowered by this Act to award the same, as he or they by law have, and are under, to execute and return a writ of execution on any judgment of a court of record, in an action of debt: and shall be subject and liable to all the like action and actions for any fraud or falsehood, neglect, misfeasance and malefeasance, in or concerning the executing or returning of any such process for the executing of such recognizance aforesaid, as he or they by law are liable and subject to for any defaults, neglects, frauds, falsehoods, delinquencies, or errors whatsoever, touching, concerning, or in anywise relating to the execution or return of any writ or process on any judgment of a court of record in an action of debt. And every writ or process for the executing such recognizance may run into any county or place (and is hereby made awardable into any county or place in this Commonwealth) and may and shall be there executed by the officer or officers of such county, town or place by law having the execution and return of writs, to whom it shall be directed. And the writ or process for the executing of such recognizance as is aforesaid, shall be in the form, or to the effect and meaning of the form which here followeth, to wit:

Writs or processes to run into any county or place in this Commonwealth.

The Commonwealth of *Massachusetts.*

(Seal.)

To the Sheriff of the County of his Undersheriff or Deputy, or either of the Constables of the Town of in the said County of GREETING.

Form.

BECAUSE C. D. of in the county of on the day of in the year of our LORD 17 before A. B. Esquire, one of the Justices of the Peace for the said county of acknowledged that he was indebted to E. F. of in the county of in the sum of which he ought to have paid on the day of and remains unpaid, as it is said:

WE command you therefore, that of the goods, chattels, or real estate of the said C. D. within your precinct, you cause to be paid and satisfied unto the said E. F. at the value thereof in money, the sum last abovesaid, with more for this writ, and thereof also to satisfy yourself your own lawful fees: And for want of goods, chattels, or real estate of the said C. D. to be found within your precinct, to the acceptance of the said E. F. to satisfy the sums aforesaid, and your said fees; we command you to take the body of the said C. D. and him commit unto our gaol in our county of aforesaid, there to be detained in the said gaol until he pay the full sums abovesaid with your said fees, or that the said C. D. be discharged by the said E. F. the creditor, or otherwise by order of law. Hereof

fail not, and make return of this writ, with your doings therein, unto the above-named A. B. within sixty days next coming. Witneſs the ſaid A. B. at the day of in the year of our LORD 17 A. B.

In caſe— SECT. 3. *And it is further enacted*, That in caſe at the time of awarding ſuch writ of execution, there ſhall, by reaſon of death, happen to be any change of the perſon or perſons who by law ſhall have the right to ſue out the ſame, or of the perſons chargeable with the payment of the contents of the recognizance, from the time when it was taken; the form of the ſaid writ ſhall be ſo varied from the foregoing form, as to make it take effect, according to the operation of the law upon the caſe at the time of the writ's iſſuing.

Proviſo. *Provided always*, That in what manner ſoever the choſe in action may be changed by the death of one or more of the conuſees, the property and intereſt in the debt ſhall always in that caſe veſt in ſuch perſon or perſons as a debt which is due to joint-merchants does by the law-merchant; and that the right of ſurviverſhip ſhall not take place with regard to the property in the debt.

No writ to make the bodies of the heirs at law liable to be taken. But in caſe— SECT. 4. *And be it further enacted by the authority aforeſaid*, That no writ of this ſort ſhall be awarded in ſuch form as to make the body or bodies of the heir or heirs at law, of the conuſor or conuſors, or the proper goods or eſtate of the executors or adminiſtrators, liable to be taken in ſatisfaction of the ſaid writ: But in caſe of the death of any conuſor or conuſors of this ſort, ſuch writ ſhall run againſt ſuch perſon, perſons and eſtate, as a writ of execution on a judgment of a court of record in an action of debt, would by law run, in caſe the judgment debtor or debtors, or any of them, were dead. And

All perſons grieved to have remedy in the law. that every perſon and perſons that ſhall be grieved and injured by the wrongful ſueing out and executing of any writ or proceſs of execution of this ſort, ſhall have all the like remedy and remedies in the law as in caſe a writ of execution on any judgment of a court of record in debt had been unjuſtly and wrongfully ſued out and executed upon him or them.

In caſe three years from the time limited in ſuch recognizance ſhall have elapſed. SECT. 5. *And be it further enacted*, That in caſe at any time it ſhould happen, that full three years ſhall have elapſed from and after the time ſet and limited in and by ſuch recognizance for the payment of the contents thereof, without any payment made and underwritten or indorſed, and without any writ of execution having been ſued out thereon; or in caſe any payment or payments of part ſhall have been made and underwritten, or indorſed at any time or times after the time ſet and expreſſed for the payment of the contents, and three years ſhall have elapſed from and after the laſt of ſuch payments, and no writ of execution ſhall have been ſued out within three years from

from the laſt payment; no writ of execution ſhall be awardable in either of ſuch caſes, until a writ of *Scire Facias* ſhall have been ſued out from a court in which by law an original action for a like ſum might have been brought and ſerved, and return thereof made as by law is directed; but after that ſhall have been done, and upon the defendant's non-appearance, or not ſhewing ſufficient cauſe, and the plaintiff's producing and filing the original recognizance in the court from which the *Scire Facias* iſſued, the court ſhall proceed to award execution for what ſhall appear to be due on ſuch recognizance with the lawful coſts.

In caſe of death of Juſtices of the Peace who have taken recognizances—

SECT. 6. *And be it further enacted by the authority aforeſaid*, That in caſe of the death of the Juſtice of the Peace, who ſhall have taken any ſuch recognizance as the aforeſaid, or of his removal out of the Commonwealth or otherwiſe, where no writ of execution thereon has been ſued out, and returned ſatisfied; in every ſuch caſe, any creditor or creditors who ſhall have any ſuch recognizance taken before ſuch deceaſed or removed Juſtice, and ſhall file the ſame in the Court of Common Pleas for the county where either the creditor or the debtor dwells, ſhall be entitled to ſue out a writ of *Scire Facias* thereon: And the debtor being ſerved with ſuch writ in the manner above preſcribed, and not appearing or ſhewing ſufficient cauſe why execution ſhould not be had, the Court ſhall proceed to award execution for what ſhall appear to be due with lawful coſts.

Perſons in whoſe favour acknowledgments have been taken—

SECT. 7. *And be it further enacted*, That any perſon or perſons, in whoſe favour any acknowledgment has been taken or may be taken on or before the firſt day of December next, agreeable to the Act mentioned as above, to be repealed, ſhall be entitled to the benefit of the ſame proceeding thereon, as he might have had if the ſame Act had continued in force and unrepealed; any thing in this Act to the contrary notwithſtanding.

Fees to the Juſtices.

SECT. 8. *And be it further enacted*, That the fees to the Juſtice of the Peace who ſhall take recognizances purſuant to this Act, ſhall be as followeth, to wit:

For taking and atteſting any ſuch recognizance, be the number of the conuſors or conuſees more or leſs, ſhall be *One Shilling and Six Pence*, and no more.

For recording ſuch recognizance, *One Shilling*, and no more.

For the writ of execution on ſuch recognizance, *One Shilling and Six Pence*, and no more.

[This Act paſſed *October* 19, 1782.]

An ACT to prevent profane Curſing and Swearing.

[This Act paſſed *October* 19, 1782. *Repealed June* 29, 1798.]

An ACT for making more effectual Provision for the due Observation of the Lord's Day; and for repealing the several Laws heretofore made for that Purpose.

[This Act passed *October* 22, 1782. *Repealed March* 8, 1792.]

An ACT for regulating the Treasury; and for repealing certain Parts of an Act, entitled, "An Act for the better Regulation of the Treasury of this Commonwealth, and for appointing an Assistant-Treasurer."

[This Act passed *October* 23, 1782.]

An ACT to compel Executors living without the Commonwealth to settle their Accounts; and to oblige Administrators and Guardians, not being Inhabitants of this Commonwealth, to give Bonds with proper Sureties for the Performance of the Duties of their Trust.

Persons appointed executors, living without this Commonwealth, to enter into bonds.

SECT. 1. *BE it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That when any person who shall hereafter be appointed executor to any testament, shall, at the time of the probate of the same, live without this Commonwealth; he shall, before the Probate of the Will, whereby he is appointed, enter into bonds to the Judge of Probate for the county in which the testator lived, with sufficient sureties, being inhabitants of the said Commonwealth, for his faithful performance of the trust reposed in him: And if such executor shall refuse to enter into such bonds, Administration shall be granted, with the Will annexed, in the same manner as if such executor declined the trust.

Executors removing without this Commonwealth before the settlement of their accounts, administration to be granted *de bonis non*, &c.

SECT. 2. *And be it further enacted,* That when any executor shall remove himself without this Commonwealth, and become an inhabitant of some other State, place or kingdom, before his accounts shall be settled, and shall not, upon being thereunto required by the Judge of Probate in the county where the Will shall have been proved, come into this Commonwealth and settle his accounts, Administration shall be granted *de bonis non*, with the Will annexed, in the same manner as if such executor had died intestate; and he shall be answerable to such administrator for all the estate which shall have come to his hands; having credit for his just expenses, the debts he may have discharged, and the legacies he may have paid.

SECT. 3.

SECT. 3. *And be it further enacted*, That where any perſon now living without this Commonwealth, ſhall have been appointed executor to the Will of any perſon now deceaſed, ſhall, upon being duly required by the Judge of Probate of the county where the Will hath been proved, to come and ſettle his accounts, and ſhall refuſe to appear and ſettle the ſame, and pay the debts and legacies, Adminiſtration *de bonis non*, with the Will annexed, ſhall be granted in the ſame manner as if ſuch Will had been proved after the making of this Act, and the executor had removed himſelf without the Commonwealth after the probate of the ſame Will.

In caſe executors refuſe to ſettle their accounts.

SECT. 4. *And be it further enacted*, That when any perſon or perſons, not being inhabitants of this Commonwealth, ſhall take Letters of Adminiſtration on any inteſtate eſtate, or Letters of Guardianſhip in behalf of minors, he or they ſhall, previous to ſuch Letters being granted, give bond, with ſufficient ſureties, being inhabitants of this Commonwealth, to the Judge of Probate granting ſuch Letters, for the faithful performance of the truſt repoſed in ſaid adminiſtrators or guardians.

Perſons not being inhabitants of this Commonwealth, taking letters of adminiſtration, to give bond.

[This Act paſſed *October* 23, 1782.]

An ACT for confirming certain Lands, lying in the County of *York*, to certain Perſons claiming the ſame, under *William Phillips* and *Bridget Phillips*.

[This Act paſſed *October* 30, 1782.]

An ACT for confirming certain Lands in the County of *York*, to certain Perſons claiming the ſame, under *Nicholas Shapleigh*.

[This Act paſſed *October* 30, 1782.]

An ACT for granting a Lottery for repairing and ſupporting a Bridge over *Agawam* River, ſo called, in *Weſt-Springfield*.

[This Act paſſed *November* 1, 1782.]

An ACT in Addition unto an Act, entitled, "An Act providing for the levying and collecting Taxes in Plantations that are not incorporated.

[This Act paſſed *November* 1, 1782. *Expired.*]

An

An ACT for indemnifying all Perſons, except *Samuel Ely*, concerned in the late Diſturbances in the County of *Hampſhire*.

[This Act paſſed *November* 4, 1782.]

An ACT for apprehending and ſending for trial Perſons charged with having committed Crimes in ſome other State; and to authoriſe the Officers of Juſtice of the other States to continue the Execution of their Precepts within this State, when neceſſary.

Preamble.

WHEREAS it will tend to maintain the union and harmony of the United States of America, that perſons ſtanding charged with the commiſſion of crimes in one of ſaid States and eſcaping into another, ſhould be apprehended, ſecured, and ſent for trial to the State where the charge ariſes: Therefore,

Perſons charged with crimes in other States, Juſtices to grant warrants to apprehend them.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That when any perſon ſhall ſtand charged with the commiſſion of any crime in any other of ſaid States, and ſhall eſcape into this Commonwealth, it ſhall be lawful for any Juſtice of the Peace in any county where the offender may be, upon application made for that purpoſe, to apprehend ſuch offender by warrant, and cauſe him to be brought before himſelf, or ſome other Juſtice of the Peace of the county for examination; and it ſhall be lawful for any Juſtice, upon ſuch examination (if he ſhall think proper) to commit ſuch offender to gaol, or ſend him, by warrant, to the confines of the State where the offence was committed, if an adjoining one, and there deliver him to a proper officer; or if the offence was committed in a more diſtant State, to ſome officer in an adjoining one, if there be any empowered to receive, and convey him to ſuch more diſtant State, in order for trial. And when any offender ſhall be apprehended in another State, and it may be neceſſary to carry him through this Commonwealth, in order to his being conveyed to the State where the offence was committed, it ſhall be lawful for any Juſtice of the Peace in any county, when applied to, to order ſuch offender to be ſo carried by warrant; and all warrants for ſending offenders to the confines of, or for carrying them through this Commonwealth as aforeſaid, may be directed to, and ſhall be executed by, the Sheriffs or their deputies, of the ſeveral counties through which it may be neceſſary to ſend or carry the offender, or to any or either of the Conſtables of the ſeveral towns in ſuch counties reſpectively: All which officers ſhall be directed

Juſtices authoriſed to commit ſuch offenders, &c.

Warrants to be executed by the ſheriffs or their deputies.

ed to proceed with such offender or offenders to the confines of the next adjoining county, and there deliver him or them to some proper officer of such county; which process shall be repeated and continued until such offender or offenders shall have been carried through this Commonwealth, and conveyed to the next adjoining State.

And whereas the public roads leading from many of the towns in this government, and the towns of the neighbouring governments of *New-Hampshire*, *Connecticut*, *Rhode-Island* and *New-York*, are so intermixed that the officers of justice of the said neighbouring governments, in the execution of their office, are oftentimes obliged (the road or direct way so leading) to pass, and even to convey prisoners through towns or lands belonging to this government, and without the jurisdiction of such officer of justice, whereby disputes, difficulties or inconveniences will arise, as well to the prejudice of the public, as to the damage of private persons, unless some provision is made in that behalf: Preamble.

SECT. 2. *Be it therefore enacted*, That the Sheriffs, Deputy-Sheriffs, Constables, or other officers of justice, of the neighbouring governments, with their assistants in the execution of any writs, warrants, or other process, issuing from, and returnable to, courts in their respective governments, may and shall have full liberty, power and authority, to pass and repass, and also to convey such persons, or things, as they may have in their custody, by virtue of any writ or warrant as aforesaid, in or by any of the roads or ways lying in or leading through any towns or lands of this government, in as full, free, and ample manner as the officers of justice of this government do use and exercise in the discharge of their duty and office: And all persons insulting or obstructing such officers of justice of the neighbouring governments, in such execution of their office, as they are passing through any of the roads or lands of this government, shall be subject to the same pains and penalties as persons would by law be subject unto for insulting or obstructing similar officers of justice of this government in the due execution of their office. Officers of Justice of the neighbouring governments in the execution of any writs, &c. to have liberty to pass and repass.

[This Act passed *November* 7, 1782.]

An ACT in Addition to an Act, entitled, "An Act in Addition to an Act, entitled, "An Act for preventing all Commerce and illegal Correspondence with the Enemies of the United States of America."

[This Act passed *November* 8, 1782.]

An

An ACT reſpecting Exciſe.

[This Act paſſed *November* 8, 1782.]

An ACT to ſuſpend the Privilege of the Writ of *Habeas Corpus* for four Months.

[This Act paſſed *February* 5, 1783.]

An ACT for reviving and continuing ſundry Laws that are expired or near expiring.

[This Act paſſed *February* 7, 1783.]

An ACT to remove certain Actions now pending in the Supreme Judicial Court in the County of *Hampſhire*, to the Supreme Judicial Court in the County of *Berkſhire*, and to enable *Peter A. Fonda* to re-enter a certain Action in the Court of Common Pleas in the ſaid County of *Berkſhire*.

[This Act paſſed *February* 10, 1783.]

An ACT for granting a Lottery for re-building and making good the public Bridges and Cauſeways in the Town of *Lancaſter*.

[This Act paſſed *February* 15, 1783.]

An ACT appointing a Time and Place for holding the Supreme Judicial Court in the County of *Suffolk*.

[This Act paſſed *February* 17, 1783.]

An ACT for encouraging the Killing of Wolves.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That whoſoever ſhall hereafter, within this Com-
Wolves killed, &c. monwealth, kill any grown wolf or wolf's whelp (other than ſuch as ſhall be taken out of the belly of any bitch wolf) and bring the head thereof unto the Conſtable of the town in which ſuch

ſuch wolf or wolf's whelp ſhall be killed, or to the Conſtable of the town next adjacent unto the place of killing ſuch wolf or wolf's whelp, without the bounds of any townſhip, the Conſtable, in preſence of one or more of the Selectmen, ſhall cut off both the ears of the ſame, and cauſe them to be burned. And ſuch Selectman or men, and Conſtable, ſhall give the party a receipt for the ſaid head, expreſſing whether it be a grown wolf, or a whelp; and upon producing ſuch receipt, the party ſhall be paid and allowed by the Treaſurer of ſuch town, out of the town treaſury, the ſum of *Four Pounds* for every head of a grown wolf by him killed, and the ſum of *One Pound* for every wolf's whelp; and all ſuch ſum and ſums of money ſo paid out of any town treaſury, in manner aforeſaid, ſhall be paid and allowed to ſuch town by the Treaſurer and Receiver-General of this Commonwealth.

The Conſtable of the town to cut off both the ears of the ſame, in the preſence of the Selectmen. Selectmen and Conſtable to give a receipt to the party.

Bounty.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That all certificates of ſuch payments to be returned to the Treaſurer and Receiver-General, ſhall be in the form following: That is to ſay,

Certificates to be returned to the Treaſurer and Receiver-General.

To the Treaſurer of the Commonwealth of *Maſſachuſetts*.

THIS certifies, that there hath been allowed and paid out of the Town Stock of the ſum of for grown Wolves, and the ſum of for Wolves' Whelps, killed in or near unto ſaid town, and within this Commonwealth, ſince the day of laſt, and the heads thereof brought unto a Conſtable of ſaid town, and the ears cut off and burnt in the preſence of one or more of the Selectmen of ſaid town, as the law directs, and ſo certified, amounting in the whole to the ſum of which you are deſired to allow to ſaid town by paying the ſame to Treaſurer of ſaid town.

Dated at aforeſaid, this day of 17

} Selectmen
} of
} Town Treaſurer.

Form.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That all the laws of this Commonwealth heretofore made reſpecting wolves or wolves' whelps, ſo far as they relate to the ſame, be, and hereby are repealed and declared to be null and void.

Repealing all laws heretofore made reſpecting wolves.

[This Act paſſed *February* 21, 1783.]

An

An ACT for discontinuing the Name of a Town in the County of *Hampshire*, formerly incorporated by the Name of *Murrayfield*, and calling the same *Chester*.

[This Act passed *February* 21, 1783.]

An ACT for erecting a District in the County of *Middlesex*, by the Name of *Boxborough*.

[This Act passed *February* 25, 1783.]

An ACT for discontinuing the Name of a Town in the County of *Suffolk*, incorporated by the Name of *Stoughtonham*, and calling the same *Sharon*.

[This Act passed *February* 25, 1783.]

An ACT for carrying into Execution an Ordinance of Congress for establishing Courts for the Trial of Felonies and Piracies committed on the High Seas.

[This Act passed *February* 25, 1783.]

An ACT for annexing *Noah Wizzle*, with his Lands, within a certain Gore of Land, lying between the Towns of *Fitchburgh*, *Leominster* and *Westminster*, in the County of *Worcester*, unto the Town of *Fitchburgh*.

[This Act passed *February* 26, 1783.]

An ACT for granting a Lottery for re-building the North Mills in the Town of *Boston*, which were lately consumed by Fire.

[This Act passed *February* 26, 1783.]

An ACT in Addition to the several Acts already made for the prudent Storage of Gun-Powder within the Town of *Boston*.

[This Act passed *March* 1, 1783.]

An

An Act for ſetting off *David Parker* from the Diſtrict of *Carliſle*, and annexing him to the Town of *Chelmsford*.

[This Act paſſed *March* 1, 1783.]

An ACT for raiſing by Lottery the Sum of *Three Thouſand Pounds*, for the Purpoſe of building a Glaſs Houſe, and promoting the Manufacture of crown and other Glaſs, in *Boſton*.

[This Act paſſed *March* 1, 1783.]

An ACT to incorporate the Congregational Society in the Town of *Norton* into a diſtinct Pariſh; and alſo to incorporate a Committee of the ſaid Society for certain Purpoſes.

[This Act paſſed *March* 4, 1783.]

An ACT determining at what Times and Places the ſeveral Courts of General Seſſions of the Peace and Courts of Common Pleas, ſhall be held within and for the ſeveral Counties of the Commonwealth.

[This Act paſſed *March* 10, 1783.]

An ACT in Addition to an Act paſſed the eighth day of *November*, One thouſand ſeven hundred and eighty-two, laying an Exciſe on certain Articles therein mentioned.

[This Act paſſed *March* 10, 1783.]

An ACT for erecting certain Lands, hereafter deſcribed, into a Town, by the Name of *Middlefield*; and annexing the Whole to the County of *Hampſhire*.

[This Act paſſed *March* 12, 1783.]

An

An ACT for granting ſpecial Powers to certain Commiſſioners of the United States, in certain caſes; and to enable the United States to recover Debts and Effects belonging to the ſaid United States.

[This Act paſſed *March* 12, 1783.]

An ACT in Addition to an Act, entitled, "An Act for apprehending and ſecuring Deſerters from the Continental Army, and from the Fleets and Armies of our Allies; and for repealing all Acts heretofore made and paſſed for that Purpoſe."

[This Act paſſed *March* 12, 1783.]

An ACT providing for the Payment of Coſts in criminal Suits.

[This Act paſſed *March* 12, 1783. *Repealed March* 6, 1792.]

An ACT for confirming the Records of the Proprietors of a Plantation called *Bridgeton*.

[This Act paſſed *March* 13, 1783.]

Altered as to Eſſex, June 4, 1790.

Nantucket and Dukes County, June 17, 1791. Lincoln, March 22, 1793. Hampſhire, Feb. 26, 1794. Nantucket and Suffolk, Feb. 27, 1798. Norfolk, June 29, 1798.

Times and places for holding Supreme Judicial Courts.

An ACT for appointing the Times and Places for holding the Supreme Judicial Court.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That from and after the firſt day of January, One thouſand ſeven hundred and eighty-three, and until the General Court ſhall otherways order and direct, the time and places for holding a Supreme Judicial Court ſhall be as follows, viz.

At *Boſton*, within and for the county of *Suffolk*, on the third Tueſday of *February*, and the laſt Tueſday of *Auguſt*.

For the county of *Eſſex*, at *Ipſwich*, on the third Tueſday in *June*; at *Salem*, on the firſt Tueſday of *November*.

For the county of *Middleſex*, at *Cambridge*, on the laſt Tueſday of *October*; and at *Concord*, on the ſecond Tueſday of *April*.

For

For the county of *Hampſhire*, at *Northampton*, on the laſt Tueſday of *April*; and at *Springfield*, on the fourth Tueſday of *September*.

For the county of *Plymouth*, at *Plymouth*, on the third Tueſday of *May*.

For the counties of *Barnſtable* and *Dukes-County*, at *Barnſtable*, in the county of *Barnſtable*, on the Wedneſday next preceding the third Tueſday of *May*.

For the county of *Briſtol*, at *Taunton*, on the Tueſday preceding the laſt Tueſday of *October*.

For the county of *York*, at *York*, on the fourth Tueſday of *June*.

For the county of *Worceſter*, at *Worceſter*, on the Tueſday next preceding the laſt Tueſday of *April*, and on the third Tueſday of *September*.

For the counties of *Cumberland* and *Lincoln*, at *Falmouth*, in the county of *Cumberland*, on the Tueſday next following the fourth Tueſday of *June*.

For the county of *Berkſhire*, at *Great-Barrington*, on the firſt Tueſday in *October* next, and no longer; and after the firſt day of January, One thouſand ſeven hundred and eighty-four, at *Lenox*, on the firſt Tueſday in *October*.

All appeals to be heard at the Supreme Judicial Court at Boſton.

SECT. 2. *And be it further enacted*, That all appeals from the Court of General Seſſions of the Peace, and from the Court of Common Pleas of the county of *Nantucket*; and all judgments, orders and determinations of the ſaid courts, for the county of *Nantucket*, that may be removed by Certiorari, writ of error, or otherways, into the Supreme Judicial Court, ſhall be heard and determined at the Supreme Judicial Court, at *Boſton*, on the laſt Tueſday of *Auguſt*.

Writs, &c. returnable.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That all writs, recognizances, warrants and complaints, and every other thing that ſhould, or may be returned to, or entered at the court aforeſaid, to be holden at the times and places heretofore appointed; and all parties and perſons that by law are, or may be required or directed to appear or attend at the aforeſaid times and places; and all actions, ſuits and matters that now are, or may be pending in the ſame court, ſhall be returned to, entered, appear and attend, have day, be tried and determined in the ſaid Court, at the reſpective times and places eſtabliſhed by this Act.

Proviſo.

SECT. 4. *Provided nevertheleſs, and be it enacted*, That the time for the next holding the Supreme Judicial Court, in the county of *Worceſter*, ſhall be on the third Tueſday of *April* next, any thing in this Act to the contrary notwithſtanding.

[This Act paſſed *March* 14, 1783.]

An

An ACT for the Purpose of securing to Authors the exclusive Right and Benefit of publishing their Literary Productions, for twenty-one Years.

Preamble.

WHEREAS the improvement of knowledge, the progress of civilization, the public weal of the community, and the advancement of human happiness, greatly depend on the efforts of learned and ingenious persons in the various arts and sciences: As the principal encouragement such persons can have to make great and beneficial exertions of this nature must exist in the legal security of the fruits of their study and industry to themselves; and as such security is one of the natural rights of all men, there being no property more peculiarly a man's own than that which is produced by the labour of his mind:

Therefore, to encourage learned and ingenious persons to write useful books for the benefit of mankind,

Books, &c. the sole property of authors.

SECT. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That all books, treatises, and other literary works, having the name or names of the author or authors thereof printed and published with the same, shall be the sole property of the said author or authors, being subjects of the United States of America, their heirs and assigns, for the full and complete term of twenty-one years, from the date of their first publication.

Persons prohibited printing, &c. any literary productions.

SECT. 2. *And be it further enacted by the authority aforesaid,* That if any person or persons shall print, reprint, publish, sell or expose to sale, or shall cause to be printed, reprinted, published, sold, or exposed to sale, any book, treatise, or other literary work not yet printed, written by any subject of the United States of America, whose name, as author, shall have been thereto prefixed, without consent of the author or authors, or their assigns, during said term, shall forfeit and pay a sum not exceeding *Three Thousand Pounds*, nor less than *Five Pounds*, to the use of such author or authors, or their assigns; to be recovered by action of debt in any court of record proper to try the same.

Penalty.

Proviso. *Provided always*, That every author of such book, treatise, or other literary work, shall, in order to his holding such sole property in them, present two printed copies of each and every of them to the library of the University at *Cambridge*, for the use of the said University; and prior to his recovery of the said forfeiture, or any part thereof, shall produce, in open court where such action shall be tried, a receipt of such book, treatise, or other literary work, from the Librarian of the said University for the time being. *Provided also*, That this act shall not be construed to extend in favour or for the benefit of any author or authors, subject or subjects of any other of the United

United States, until the State or States of which such authors are subjects, shall have passed similar laws, for securing to authors the exclusive right and benefit of publishing their literary productions.

[This Act passed *March* 17, 1783.]

An ACT for confirming a certain Instrument, as the last Will and Testament of *Nicholas Gardner*.

[This Act passed *March* 19, 1783.]

An ACT for preventing the unnecessary Destruction of Shad, Alewives, and other Fish, in *Calhance* and *Abagadesset* Rivers, in the Town of *Bowdoinham*.

[This Act passed *March* 20, 1783.]

An ACT more effectually to enable Constables and Collectors of Taxes to collect Assessments in certain Cases.

WHEREAS towns, districts and plantations, in certain instances, are by law authorised to assess the inhabitants adjacent to such towns, districts and plantations, their proportion of the public taxes; and whereas doubts have arisen, and may hereafter arise, whether Constables and Collectors are by law authorised to command assistance when out of the limits of their respective towns: Therefore, Preamble.

SECT. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That when and so often as any Constable or Collector of public taxes shall have any list of assessment to him committed, in which list shall be named and legally assessed, in any sum or sums, any person or persons not inhabitants of the town, district or plantation to which such Constable or Collector belongs, in every such case it shall and may be lawful for any such Constable or Collector to require and command any person or persons within the limits of their respective towns, districts or plantations, to assist such Constable or Collector, in the collection of the taxes assessed as aforesaid, on any of the inhabitants of any such adjacent lands, and such Constable or Collector may, and hereby is also fully authorised to require and command any of the inhabitants of the aforesaid lands adjacent, to assist him in collecting any such assessment as aforesaid. Constables and Collectors having any list of assessment upon adjacent inhabitants may command assistance.

SECT.

Perſons refuſing to aſſiſt Conſtables or Collectors. Penalty.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons, when thereto required, ſhall refuſe or neglect to aid and aſſiſt any Conſtable or Collector requiring ſuch aid, he or they ſo refuſing or neglecting, ſhall be, and hereby are made liable to, and ſhall pay the ſame penalties, to be recovered and diſpoſed of in the ſame manner, as by law is provided in caſe of refuſing to aſſiſt Conſtables or Collectors when thereto required within the limits of their reſpective towns.

[This Act paſſed *March* 20, 1783.]

An ACT to empower the Corporation of *Harvard*-College to make a legal Conveyance of a certain Lot of Land, being the Property of the ſaid College.

[This Act paſſed *March* 20, 1783.]

An ACT in Addition to, and for altering and amending an Act, entitled, "An Act for forming and regulating the Militia within the Commonwealth of *Maſſachuſetts*, and for repealing all Laws heretofore made for that Purpoſe."

[This Act paſſed *March* 21, 1783.]

An ACT laying an Impoſt on certain Goods, Wares and Merchandize.

[This Act paſſed *March* 22, 1783.]

An ACT for apportioning and aſſeſſing a Tax of £.200,000.

[This Act paſſed *March* 22, 1783.]

An ACT for reviving the Act, entitled, "An Act to regulate the Sale of Goods at Public Vendue, and to limit the Number of Auctioneers;" alſo another Act, entitled, "An Act in Addition to an Act made and paſſed at the laſt Seſſion of the General Court, entitled, "An Act to regulate the Sale of Goods at Public Vendue, and to limit the Number of Auctioneers."

[This Act paſſed *March* 24, 1783. *Repealed June* 16, 1795.]

An

An ACT in Addition to an Act, entitled, "An Act in Addition to an Act, entitled, an Act to empower the Treasurer to receive Government Securities on Loan," to empower the Treasurer to receive Government Securities on Loan, and to consolidate the same to the further Amount of *Three Hundred Thousand Pounds*.

[This Act passed *March* 25, 1783.]

An ACT for granting a Lottery for the re-building and repairing the public Bridges, and repairing the Highway in the Town of *Winchendon*, which lead to *Charlestown*, in the State of *New-Hampshire*.

[This Act passed *June* 16, 1783.]

An ACT for granting a Lottery for the Purpose of re-building a Bridge across *Westfield-River*, in the Town of *Westfield*, nigh to a Place called *Weller's-Mills*.

[This Act passed *June* 18, 1783.]

An ACT for incorporating a Number of the Inhabitants of the Town of *Amherst*, in the County of *Hampshire*, into a separate Parish, by the Name of *The Second Parish in the Town of Amherst*.

[This Act passed *June* 19, 1783.]

An ACT in Addition to the several Acts of this Commonwealth already made, for the Preservation of the Fish called Alewives, and for the better regulating the River called *Wewewantett-River*, in the County of *Plymouth*.

[This Act passed *June* 23, 1783.]

An ACT for incorporating the Proprietors of *Mattakesset-Creeks* (so called) in the Town of *Edgartown*, in the County of *Dukes-County*, into a Body Politic,

by the Name of *The Proprietors of Mattakeſſet-Creeks*; and alſo for the regulating and better improving the Low Grounds and Meadows adjoining the ſaid Creeks and Great-Pond (ſo called) in the ſaid Town.

[This Act paſſed *June* 24, 1783.]

An ACT to carry into Execution an Act made in the Year One thouſand ſeven hundred and ſeventy-eight, entitled, "An Act to prevent the Return to this State of certain Perſons therein named, and others; who have left this State, or either of the United States, and joined the Enemies thereof."

[This Act paſſed *July* 2, 1783.]

An ACT for reviving and continuing ſundry Laws that are expired, or near expiring.

[This Act paſſed *July* 2, 1783.]

An ACT to incorporate the Eaſt Pariſh of *South-Brimfield*, in the County of *Hampſhire*, into a Diſtrict by the Name of *Holland*.

[This Act paſſed *July* 5, 1783.]

An ACT to empower the Proprietors of the Meeting-Houſe in the Eaſt Pariſh in *Salem*, to raiſe Money by a Tax on the Pews and Seats in the ſaid Meeting-Houſe, to ſupport a Colleague to their preſent Miniſter, and making Proviſion for the Diſſolution of the ſaid Pariſh.

[This Act paſſed *July* 5, 1783.]

March 16, 1786.

An ACT to provide for the Collection of Taxes in Caſes where the Conſtables or Collectors appointed for that Purpoſe have removed or may remove themſelves out of this Commonwealth.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That where any Conſtable or Collector in any town, precinct or pariſh, within this Commonwealth, ſhall have had any rates or aſſeſſments committed to him to collect, and has

has removed, or in the judgment of the Selectmen, Assessors or Treasurer of the said town, or the Committee or Treasurer of the precinct or parish (as the case may be) is about to remove out of this Commonwealth before the time set in his warrant or warrants to make payment to the several Treasurers therein mentioned, or the time of payment be elapsed, and the Treasurer or Treasurers has thereupon issued his or their warrant or warrants of distress, that in either case it shall and may be lawful for the Selectmen of such town, or committee of such precinct or parish, on their own motion, or at the request of their respective Assessors or Treasurers, to call a town, precinct or parish meeting, in due form of law, setting forth in their warrant the cause of such meeting, and requiring the voters qualified by law at the said meeting, if the said voters shall think it proper, either by themselves or such person or persons as they shall appoint, to settle with the said Constable or Collector who is under either of the abovementioned circumstances, and who has or is about to remove as aforesaid, for the money he has received on the rate-bill or bills that has been delivered to him, and demand and receive his said bill or bills, and give him a discharge therefor; and at the said meeting may proceed to the choice of another Constable or Collector, who, upon non-acceptance, shall be liable to the same fine as if he had been originally chosen in the month of *March*, and the town, parish or precinct, shall proceed to a new choice, and so *toties quoties*, until one is chosen who shall accept, and be sworn accordingly; and the Assessors shall make out a new warrant under their hands and seals, in due form of law, and shall deliver the warrant, together with the same bill or bills, to the person chosen as aforesaid, to collect and levy what shall be remaining due thereon; and the person so chosen is hereby vested with the same authority to levy and collect what shall then remain due on the same bill or bills, as the Constable or the Collector was to whom they were first committed.

Where Constables or Collectors have had rates committed to them and have removed, or are about to remove; in either case the Selectmen or Committees are to call a meeting, setting forth the cause.

Persons to be chosen to settle with Constables or Collectors who are under the above circumstances.

To choose another Constable or Collector.

Assessors to make out a new warrant.

SECT. 2. *And be it further enacted by the authority aforesaid*, That if any Constable or Collector so removing or intending to remove himself out of this Commonwealth, shall refuse to deliver the bill or bills of rates or assessments committed to him to collect, and all monies collected by him thereon and remaining in his hands, when demanded by the Assessors or Selectmen, or the major part of them as aforesaid, to deliver the same, he shall pay a fine of *Sixty Pounds*, to the use of the town, precinct or parish of which he was Constable or Collector, to be recovered by such town, precinct or parish, in any action of debt to be brought in any court of law proper to try the same, and shall remain liable to pay what shall remain due upon the bill or bills committed to him to collect, as by the law of this Commonwealth is already provided.

In case of refusal.

Penalty.

How to be recovered.

[This Act passed *July* 5, 1783.]

An ACT determining at what Times and Places the Supreme Judicial Court, the Court of General Seſſions of the Peace, and Court of Common Pleas, ſhall be held within and for the County of *Berkſhire*.

[This Act paſſed *July* 9, 1783. General Acts 1782 and 1790.]

An ACT laying Duties of Impoſt and Exciſe on certain Goods, Wares and Merchandize therein deſcribed, and for repealing the ſeveral Laws heretofore made for that Purpoſe.

[This Act paſſed *July* 10, 1783. Repealed *March* 3, 1790.]

Acts of October 24, 1783. March 16, 1784. November 23, 1785. March 10, 1797. June 21, 1797.

An ACT for regulating Pilotage in ſeveral Ports in this Commonwealth.

WHEREAS frequent and heavy loſſes have been ſuſtained, and navigation greatly injured, for want of a well regulated pilotage in the harbours hereafter mentioned:

Governor, with advice of Council, to appoint ſuitable perſons as Pilots.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the Governor, with advice of Council, be, and he hereby is empowered and requeſted, as ſoon as may be, to appoint ſuitable perſons as Pilots for the ſeveral harbours and coaſts hereafter mentioned, *viz.* three for the port of *Boſton*; two for the port of *Salem*; two for the port of *Marblehead*; and two for the port of *Glouceſter*; two for the port of *Newbury-Port*; two for the port of *Plymouth*; four for the coaſts of *Nantucket*; ten for the coaſts of *Martha's-Vineyard*; and to give to each of the ſaid Pilots branches or warrants for the due execution of the duties of their reſpective offices, with power of ſubſtitution in certain caſes to be therein preſcribed. And ſuch deputies as the ſaid Branch Pilots ſhall ſeverally depute, ſhall be by them reported to the Governor, for his approbation.

The number of Pilots aſſigned for the ſeveral harbours and coaſts.

Pilots to have warrants, with power of ſubſtitution.

Pilots to be under oath.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That every Pilot and Deputy, appointed as aforeſaid, ſhall, before his entering upon the buſineſs of his office, take the following oath or affirmation, before ſome Juſtice of the Peace, *viz.*

Form of the oath.

You *A. B.* do ſwear, (or affirm, as the caſe may be) that you will from time to time, truly and faithfully perform the duties of a Pilot for the harbour or port of ——, according to your beſt ſkill and judgment, agreeable to the laws of this Commonwealth.—*So help you GOD.*

And

And each of the said Branch Pilots shall enter into bonds, with sufficient sureties, to the Treasurer of this Commonwealth, in the sum of *One Thousand Pounds*, for the due performance of the trust reposed in him. And every Branch Pilot being commissioned and qualified as aforesaid, is hereby empowered and directed, by himself or his deputy, to take charge of any vessel or vessels drawing nine feet of water and upwards (coasting and fishing vessels excepted) bound into any of the ports aforesaid, and shall pilot such vessel or vessels into the port assigned to him, first shewing to the master or masters thereof, his branch or warrant, and acquainting him or them of his fees.

Pilots to enter into bonds.

Branch Pilots being duly authorized, to take charge of vessels drawing nine feet of water and upwards, except.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the districts of the several Pilots be, and they are hereby limited in manner following, *viz.* The Pilots for the port of *Boston*, from the highlands of *Marshfield*, on the south, to what is usually called *Nehant-Rock*, on the north; the Pilots for the ports of *Salem* and *Marblehead*, from the said *Nehant-Rock*, on the south, to *Norman's-Woe*, on the north; the Pilots for the port of *Glouceſter*, from the said *Norman's-Woe*, round the Cape, to *Jabackab-Barr*, (so called;) the Pilots for the port of *Newbury-Port*, from *Jabackab-Barr*, on the south, to the *Isle of Shoals*, on the north; the Pilots for the port of *Plymouth*, from the highlands afore-mentioned, on the north, to the point of *Cape-Cod*, on the south; the Pilots for the coasts of *Nantucket* and *Martha's-Vineyard*, to take charge of any vessel or vessels on the coasts thereof, that shall be bound over the shoals.

Districts of the several Pilots limited.

SECT. 4. *And be it further enacted by the authority aforesaid*, That each of the said Branch Pilots shall always keep one decked boat in good repair, except the Pilots for the coasts of *Nantucket*, who, as well as all other Branch Pilots, shall at all times keep a sufficient number of suitable row-boats, for the purposes aforesaid; and one of the boats for the port of *Boston*, shall be stationed at the *Light-House Island*; one for the port of *Newbury-Port*, at *Salisbury-Point*, or *Plumb-Island*; one for the port of *Plymouth*, in the harbour of *Plymouth*; two for the port of *Salem*, in the harbour of *Salem*; two at *Marblehead*, one in the harbour of *Glouceſter*; and one in *Sandy-Bay* (so called;) four for the coasts of *Martha's-Vineyard*, at *Gay-Head*; four at *Holmes's-Hole*; and two at *Edgarton*; and all the above mentioned boats shall cruize on the pilot-ground of their respective stations, as often as the weather shall permit.

Pilots to keep one decked boat in good repair, except for the coast of Nantucket.

Boats where to be kept.

SECT. 5. *And be it further enacted by the authority aforesaid*, That the Governor, with the advice of Council, be, and he hereby is empowered and requested, to determine and fix the fees of pilotage of the several Pilots, according as the circumstances of peace or war may require, and to specify the same in their respective warrants; and also to transmit to each Naval-Officer in the ports and harbours aforesaid, a schedule of the said fees, to be by such Naval-Officer hung up in his office, for public inspection.

Governor, with advice of Council, to determine the fees.

Naval-Officers to hang up a schedule of the fee in their offices.

SECT.

Proviſo.

SECT. 6. *Provided nevertheleſs, and be it further enacted by the authority aforeſaid*, That any maſter of a veſſel who may chooſe to hazard the pilotage of his own veſſel into any port, ſhall be at liberty ſo to do, ſubject however to pay ſuch Pilot of the ſaid port, as ſhall firſt come on board his veſſel, one half pilotage according to the fees ſpecified in his warrant; and ſuch Pilot is hereby empowered, on refuſal of the payment thereof, to ſue for and recover the ſame.

Proviſo.

SECT. 7. *Provided alſo, and be it further enacted by the authority aforeſaid*, That if any veſſel ſhall be within the light-houſe in the port of *Boſton*, or within the chops of the harbours of *Salem*, *Marblehead* and *Glouceſter*, or within the barr at the entrance of the harbour of *Newbury-Port*, or within the gurnet at the entrance of the harbour of *Plymouth*, or within any barred-harbour, before any Pilot ſhall go on board, and the maſter of ſuch veſſel ſhall then decline taking a Pilot, he ſhall be exempt from any fees of pilotage in the ſaid ports.

In caſe of loſs of any veſſel through neglect, &c. Pilots liable to pay the juſt value.

SECT. 8. *And be it further enacted*, That if any veſſel, while under the charge and direction of a Branch or Warrant Pilot, or his Deputy, ſhall be loſt, caſt away or run aground, through the unſkilfulneſs or neglect of ſuch Branch or Warrant Pilot, or his Deputy, then, and in that caſe, ſuch Branch or Warrant Pilot ſhall be liable not only for himſelf but for his Deputy (provided the ſaid Deputy ſhall be the Pilot of the ſaid veſſel at the time thereof) to pay the juſt value of the veſſel and her cargo, or any proportionable damage which may be ſuſtained thereby, to be ſued for and recovered by the owner or owners, or inſurer or inſurers thereof, in any court proper to try the ſame.

How to be recovered.

Governor, with advice of Council, authorized to appoint Pilots for other ports.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That if it ſhall hereafter become neceſſary for any port or ports within this Commonwealth, not mentioned in this Act, to have a Pilot or Pilots aſſigned them, the Governor, with the advice of Council, be, and he hereby is empowered and requeſted, to appoint and commiſſion one or more Pilots for every ſuch port or ports as to him ſhall appear neceſſary, in the ſame manner as the Pilots for the ports mentioned in this Act are directed to be appointed and commiſſioned: And the Pilot or Pilots ſo appointed, are hereby veſted with the ſame power and authority, and ſhall be under the ſame bonds, and ſubject to the ſame penalties, that are provided in this Act for any of the Pilots before mentioned.

Outward-bound veſſels to be under the ſame reſtrictions.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That all veſſels drawing nine feet of water and upwards, bound to ſea, out of any of the ports aforeſaid, except coaſting and fiſhing veſſels, ſhall be under the ſame reſtrictions, and liable to pay the ſame fees that veſſels are under and liable to, that are bound into any of the ſame ports, and all Pilots of any outward-bound veſſels, ſhall be liable to ſimilar actions for damages,

ages, and subject to the same penalties for their unskilfulness or neglect, that they would have been, if the same vessels had been bound into any of the ports aforesaid.

And to the intent that a suitable check may be had upon the Pilots aforesaid, and that they may be excited to a due vigilance in the discharge of the duties assigned them:

Governor and Council empowered to hear and determine complaints exhibited, with power of suspension.

SECT. 11. *Be it enacted by the authority aforesaid*, That the Governor and Council be and they hereby are empowered to hear and determine all complaints exhibited against the said Pilots, or their Deputies, or either of them, for mal-conduct in the premises, and to suspend or remove them, or either of them, at their discretion, and to appoint others in their room, laying the reasons therefor before the General Court, at the next session after such suspension or removal.

[This Act passed *July* 11, 1783.]

An ACT for altering the Line between the Towns of *Stow* and *Marlborough*.

[This Act passed *July* 11, 1783.]

An ACT for the Admeasurement of Boards, and regulating the Tale of Shingles, Clapboards, Hoops and Staves, and for other Purposes therein mentioned.

Addit. Act, March 16, 1784.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That there shall be one or more suitable persons elected in every town and district in this Commonwealth, at their annual meeting in the month of *March*, to be Surveyors and Measurers of boards, plank, timber and slit-work, and Surveyors of shingles, clapboards, staves and hoops, who shall be sworn to the faithful performance of the trust reposed in them. And all boards, plank, timber or slit-work, offered for sale, shall, previous thereto, be surveyed, and also measured, by one of the said Surveyors, where he shall have any doubt of the measure, having due consideration for drying and shrinking; who shall also mark anew all such to the just contents thereof, making reasonable allowance for rots, knots and splits; and the buyer shall pay to the Surveyor *Six Pence* per thousand feet, for viewing only, and *Six Pence* per thousand feet more for measuring and marking, and so in proportion for a lesser quantity.

Surveyors and measurers of boards, &c. to be annually elected in towns and districts.

All boards, &c. to be surveyed before sale.

Fees for viewing and measuring.

SECT. 2. *And be it further enacted by the authority aforesaid*, That no pine boards shall be shipped for exportation to foreign markets, but such as are square edged, and not less than one inch

No pine boards to be exported but of such dimensions.

inch in thickneſs, and not leſs than ten feet in length, on pain of being forfeited to the uſe of the town where they ſhall be ſhipped.

Dimenſions of ſhingles, &c.

SECT. 3. *Be it further enacted by the authority aforeſaid*, That no ſhingles, clapboards, ſtaves or hoops, ſhall be offered for ſale in any town in this Commonwealth, that ſhall be under the following dimenſions, *viz.* All ſhingles ſhall be ſplit croſs-ways the grain, and be eighteen inches long, unleſs thoſe made for home uſe; pine ſhingles ſhall be free from ſap, and all ſhingles ſhall be free from ſhakes and worm-holes, and ſhall be half an inch thick at the butt-end, when green, and full three-eighths of an inch when thoroughly ſeaſoned, if for exportation to a foreign market; and not leſs than one-third of an inch thick at the butt, when fully ſeaſoned, if for home uſe, and four inches and a half wide on an average, and none leſs than three inches wide, and ſhall hold their width three-fourths the way to the thin end, and be well ſhaved; and each bundle ſhall contain two hundred and fifty ſhingles, or if bound in ſquare bundles, ſhall contain twenty-five courſes, and meaſure twenty-two inches and an half at the lay: And in caſe there ſhall be more than five ſhingles in any one bundle that are under the above length, breadth or thickneſs, or five ſhort in the tale of any one bundle of two hundred and fifty, the bundle which is ſo deficient, or in which ſuch ſhingles are contained, ſhall be forfeited, and the ſhingles in each bundle which are not merchantable, ſhall be burnt, and the reſidue ſold, and the money ariſing from the ſale ſhall be paid into the hands of the Town Treaſurer, for the benefit of the poor of ſuch town where the ſhingles are condemned, firſt deducting therefrom the charge of culling and ſurveying. And all white-oak butt ſtaves ſhall be at leaſt five feet in length, five inches wide, and one inch and a quarter thick on the heart, or thinneſt edge, and every part thereof. And all white-oak pipe ſtaves ſhall be at leaſt four feet and eight inches in length, four inches broad in the narroweſt part, and not leſs than three quarters of an inch thick on the heart, or thinneſt edge. And all white-oak hogſhead ſtaves ſhall be at leaſt forty-two inches long, and not leſs than half an inch thick on the heart, or thinneſt edge. And all white-oak barrel ſtaves, for a foreign market, ſhall be thirty-two inches long; and for home uſe, ſhall be thirty inches long; and all ſhall be half an inch thick on the heart, or thinneſt edge. And all white-oak hogſhead and barrel ſtaves, ſhall be at leaſt, one with another, four inches in breadth, and none leſs than three inches in breadth, in the narroweſt part; and thoſe of the breadth laſt mentioned, ſhall be clear of ſap. And all red-oak hogſhead and barrel ſtaves, ſhall be of the ſame length, width and thickneſs, with the white-oak hogſhead and barrel ſtaves above mentioned: And all ſtaves ſhall be well and proportionably

In caſe.

To be forfeited

Dimenſions of white-oak ſtaves.

Red-oak ſtaves to be of the ſame dimenſions.

portionably ſplit. And all pine clapboards that ſhall be expoſed to ſale, ſhall be made of good ſound timber, clear of ſap; and all clapboards ſhall be free from ſhakes and worm-holes, and of the following dimenſions, *viz.* Full five eighths of an inch on the back, or thickeſt part, five inches wide, and four feet ſix inches long, and they ſhall be ſtraight and well ſhaved. And all hogſhead hoops that ſhall be expoſed to ſale, or exported, ſhall be from ten to thirteen feet in length, and ſhall be made of white oak or walnut, and of good and ſufficient ſubſtance, well ſhaved; thoſe made of oak ſhall be not leſs than one inch broad at the leaſt end, and thoſe made of walnut ſhall be not leſs than three quarters of an inch broad at the leaſt end; each bundle ſhall conſiſt of thirty hoops; and all hoops of ten, twelve and thirteen feet reſpectively, ſhall be made up in diſtinct bundles by themſelves; and if any hoops are packed of leſs dimenſions than thoſe preſcribed by this law, or if any bundle ſhall contain leſs than thirty hoops, ſuch bundle ſhall be forfeited and ſold for the benefit of the poor of the town where it is offered for ſale.

Dimenſions of pine clapboards.

Hogſhead hoops.

Hoops not holding out in number to be forfeited.

Sect. 4. *And be it further enacted*, That the Surveyor of ſhingles and clapboards ſhall be allowed by the buyer, *Six Pence* per thouſand for ſurveying and telling, and before any ſhingles are ſent from the town where they are made, or at the place of firſt ſale, before their delivery they ſhall be viewed, ſurveyed and meaſured by a ſworn Surveyor, and the town brand ſet upon the hoop of the bundle; and all ſhingles offered for ſale without being ſurveyed and marked as aforeſaid, ſhall be forfeited and diſpoſed of as before provided in this Act; and in each maritime town in this Commonwealth, from whence ſtaves or hoops are uſually exported beyond ſea, there ſhall be two or more ſuitable perſons choſen by ſuch towns, ſome time before the twelfth day of *December* next, and forever afterwards at their annual meeting in *March*, to be Viewers and Cullers of ſtaves and hoops, who ſhall be under oath, faithfully to diſcharge their office; and for their encouragement to accept this truſt, they ſhall be allowed for their time and ſervice as follows, *viz.*—*One Shilling* and *Eight Pence* per thouſand for barrel ſtaves, *Two Shillings* per thouſand for hogſhead ſtaves, *Two Shillings* and *Four Pence* per thouſand for pipe ſtaves, and *Two Shillings* and *Eight Pence* per thouſand for butt ſtaves, as well refuſe as merchantable, the merchantable to be paid for by the buyer, the refuſe by the ſeller; and the Culler ſhall be allowed *Three Shillings* per thouſand for hoops.

Fees for ſurveying and telling.

Shingles offered for ſale without being ſurveyed, to be forfeited.

Viewers and Cullers of ſtaves and hoops, to be annually elected in maritime towns.

Fees for viewing and culling ſtaves, &c.

Sect. 5. *And be it further enacted by the authority aforeſaid*, That from and after the twelfth day of *December* next, all ſtaves that ſhall be exported from this Commonwealth beyond ſea, ſhall be firſt culled, and all hoops firſt viewed and ſurveyed by one of the officers aforeſaid, and a certificate given by the Culler

Staves exported to be firſt culled, and all hoops firſt viewed, and a certificate thereof to be given.

ler or Surveyor, to the maſter or commander of the ſhip or veſſel on board which they are laden, of the quantity by him ſo culled or ſurveyed; and the bands with which the bundles of hoops are bound ſhall be ſealed with the brand of the town from whence they are exported; and that all ſhingles and clapboards that ſhall be exported beyond ſea, ſhall likewiſe be certified by one of the Surveyors already required by law to be choſen in each maritime town within this Commonwealth, to have been by him ſurveyed, viewed and approved, and the number or quantity thereof; and any ſellers of boards, ſtaves, hoops, clapboards or ſhingles, that ſhall deliver any of the ſaid articles before they are culled or ſurveyed, ſhall forfeit the ſum of *Twelve Shillings* per thouſand, and any perſon purchaſing any of the articles before mentioned, and who ſhall receive them before they are culled or ſurveyed, ſhall forfeit and pay the ſum of *Twelve Shillings* per thouſand, one half to the informer, who ſhall ſue for the ſame in any court of this Commonwealth proper to try the ſame, or before any magiſtrate within this Commonwealth, in caſe the foreiture does not exceed *Forty Shillings*; the other half to the poor of the town where ſuch offence is committed.

Shingles and clapboards for exportation, to be certified.

Sellers of boards, ſtaves, &c. in caſe. Penalty.

Sect. 6. *And be it further enacted*, That from and after the ſaid twelfth day of *December* next, the maſter or owner of any veſſel having any ſtaves, hoops, boards, clapboards or ſhingles on board, for their cargo, and which ſhall be ſhipped for exportation to a foreign market, after the ſaid twelfth day of *December* next, before ſuch veſſel ſhall be cleared at the naval-office, a certificate of ſuch ſtaves, hoops, clapboards, boards and ſhingles, having been culled or ſurveyed, and ſhall likewiſe make oath before the Naval-Officer (who is hereby required and empowered to adminiſter the ſame) or before any Juſtice of the Peace, who ſhall give a certificate of the ſaid oath, which ſhall by the maſter or owner be tranſmitted to the Naval-Officer, that the boards, ſtaves, hoops, clapboards and ſhingles, on board his veſſel, are *bona fide* the ſame boards, ſtaves, hoops, clapboards and ſhingles, certified to have been culled or ſurveyed, and that he has no other on board, and that he will not take any others on board.

Maſter or owner of any veſſel having ſtaves, &c. on board, for exportation, to make oath, and a certificate thereof to be tranſmitted to the Naval-Officer.

Sect. 7. *And be it further enacted*, That from and after the twelfth day of *December* next, if any perſon ſhall preſume to ſhip off any boards, ſtaves, hoops, clapboards or ſhingles, unleſs the ſame ſhall firſt have been culled or ſurveyed, and marked by a ſworn Culler or Surveyor as aforeſaid, he ſhall forfeit and pay the ſum of *Twelve Shillings* per thouſand, to be reckoned by feet or tale, according as the articles are uſually ſold, to be diſpoſed of, one half to the poor of the town where the offence is committed, and the other half to the Surveyor, or any other perſon or perſons who ſhall ſue for the ſame, which he or they are hereby enabled to do, by action, bill, plaint or information, in any court proper to try the ſame, or before any Juſtice of the Peace, if the forfeiture does not exceed *Forty Shillings*.

Perſons preſuming to ſhip off any boards, &c. unleſs.

Penalty.

Sect.

Cullers or Surveyors guilty of fraud or deceit in surveying or culling. Penalty. And in case.

SECT. 8. *And be it further enacted*, That in case any Culler or Surveyor, shall connive at, or allow of the breach of this Act, or shall be guilty of any fraud or deceit in surveying or culling of boards, staves, hoops, clapboards, or shingles, he shall forfeit and pay the sum of *Ten Pounds* for each offence; and in case of his refusal to attend the aforesaid service, when he shall be thereto requested, he shall forfeit and pay the sum of *Twenty Shillings*; the forfeitures and penalties in such cases to be recovered and disposed of as aforesaid.

Persons chosen Surveyors or Cullers, neglecting to take the oath for the faithful discharge of the office. Penalty.

SECT. 9. *And be it further enacted*, That if any person or persons, who shall be duly chosen to serve as a Surveyor of boards, clapboards or shingles, or as a Culler of staves or hoops, shall refuse or neglect to take the oath for the faithful discharge of the office, or to serve therein, every such person or persons shall pay the sum of *Twenty Shillings*, to the use of the poor of the town choosing such person or persons, and every such town shall proceed to the choice of other or others, in the room of any person so refusing or neglecting, and so *toties quoties*.

All former acts repealed.

SECT. 10. *And be it enacted by the authority aforesaid*, That all Acts heretofore made for the admeasurement of boards, and for regulating the tale and dimensions of shingles, clapboards, hoops and staves, be, and they are hereby repealed.

[This Act passed *July* 11, 1783.]

An ACT to incorporate the Second Parish in *Springfield*, called *Long-Meadow*, into a Town by the Name of *Long-Meadow*.

[This Act passed *October* 13, 1783.]

An ACT for erecting the Southeasterly Part of the Town of *Warwick*, and a Tract of Land called *Erving-shire*, lying on the Northerly Side of *Miller's-River*, in the County of *Hampshire*, and the Northwesterly Part of the Town of *Athol*, and the Southwesterly Part of the Town of *Royalston*, in the County of *Worcester*, into a separate District, by the Name of *Orange*.

[This Act passed *October* 15, 1783.]

An ACT for granting to the United States in Congress assembled, certain Imposts and Duties upon foreign Goods imported into this State, and for the Purpose of paying the Principal and Interest of the Debt contracted in the Prosecution of the late War with *Great-Britain*.

[This Act passed *October* 20, 1783.]

An ACT making Provision for the Support and Maintenance of Light-Houses on the Sea-Coast of this Commonwealth.

[This Act passed *October* 22, 1783.]

An ACT for ratifying and confirming an Agreement between the Towns of *Concord* and *Lincoln*, for the more convenient building and repairing the Bridges over the Great-River in the said Towns.

[This Act passed *October* 22, 1783.]

An ACT to regulate the catching of Salmon, Shad and Alewives, and to remove and prevent Obstructions in *Merimack-River*, and in the other Rivers and Streams running into the same, within this Commonwealth, and for repealing several Acts heretofore made for that Purpose.

[This Act passed *October* 24, 1783.]

An ACT to prevent the Destruction of White-Pine Trees in this Commonwealth.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That if any person, after the publication of this Act, shall cut, fell or destroy any white-pine tree, which is, or shall be at the time of felling or destroying the same, of the diameter of twenty-four inches, or upwards of twelve inches from the ground, growing or standing on any tract of land within any part of this Commonwealth, not the property of any private person or persons, without license first had and obtained for so doing, from this Legislature, or be aiding and assisting therein, or in drawing away the same after so cut or felled, he shall forfeit the sum of *Thirty Pounds*, to be recovered by bill, indictment or information, in any court of record in this Commonwealth proper to try the same, two thirds thereof to the use of this Commonwealth, and one third thereof to the informer; and the sum of *Three Pounds* for any other white-pine tree on the land aforesaid, to be recovered as aforesaid, and to the uses before mentioned; provided such prosecution be commenced within two years from the time when the offence shall be committed.

Persons destroying white pine trees of certain dimensions without license.

Penalty. How to be recovered.

Proviso.

[This Act passed *October* 24, 1783.]

An

An ACT for altering and amending one Clauſe or Part of an Act made and paſſed the laſt Sitting of the General Court, entitled, "An Act for regulating Pilotage in ſeveral Ports in this Commonwealth."

WHEREAS it is found by experience, that keeping decked boats for the advantage of pilotage on the coaſts of *Martha's-Vineyard*, doth not anſwer the good deſign intended by the Act aforeſaid : Preamble.

SECT. 1. *Therefore, be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That the Branch Pilots for the coaſts of *Martha's-Vineyard* be, and they hereby are ſeverally exempted from that part of their duty required by the Act aforeſaid, which obliges them to be provided with decked boats. Branch Pilots for the coaſts of Martha's Vineyard exempted from providing decked boats.

SECT. 2. *And it is further enacted by the authority aforeſaid,* That in lieu of decked boats, each of the ſaid Pilots ſhall be provided with a ſuitable row-boat. And the Branch Pilots for the coaſts of *Martha's-Vineyard* ſhall always hereafter jointly keep in good repair one ſmall veſſel, of about twenty tons, for the purpoſe mentioned in the aforeſaid law. In lieu thereof to be provided with ſuitable row-boats.

SECT. 3. *And be it further enacted,* That the Governor, with the advice of Council, be, and he is hereby empowered, to regulate and ſtate the fees of the ſeveral Pilots on the coaſts of this Commonwealth, and alter the ſame from time to time, as circumſtances ſhall require. Governor, with advice of Council, to regulate the fees of the ſeveral Pilots.

[This Act paſſed *October* 24, 1783.]

An ACT preſcribing the Manner of deviſing Lands, Tenements, and Hereditaments.

Act June 29, 1785, reſpecting wills, proved out of the government.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That every perſon lawfully ſeized of any lands, tenements or hereditaments, within this State, in his or her own right, in fee ſimple, or for the life or lives of any other perſon or perſons, of the age of twenty-one years, and upwards, and of ſane mind, ſhall have power to give, diſpoſe of and deviſe the ſame, as well by laſt will and teſtament in writing, as otherways by any act executed in his or her life time, to and among his or her children, or others, as he or ſhe ſhall think fit. App. ch. 1 & 4, old law, and chap. 3, ſect. 1. Perſons ſeized of lands, &c. empowered to diſpoſe of and deviſe the ſame, as well by will as otherways.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That all deviſes and bequeſts of any lands or tenements ſhall be in writing, and ſigned by the party ſo deviſing the ſame, or by ſome perſon in his preſence, and by his expreſs direction, and ſhall be atteſted and ſubſcribed in the preſence of the ſaid deviſor, All deviſes and bequeſts of lands, &c. to be in writing, and ſigned by the party ſo deviſing the ſame, and atteſted.

visor, by three or more credible witnesses, or else shall be utterly void and of no effect. And moreover, no devise in writing, of lands, tenements, and hereditaments, or any clause thereof shall be revocable, otherways than by some other will or codicil in writing, or other writing declaring the same, or by burning, cancelling, tearing or obliterating the same by the testator himself, or in his presence, and by his direction and consent; but all devises and bequests of land; and tenements, shall remain and continue in full force until the same be burnt, cancelled, torn or obliterated by the testator, or his direction, in manner aforesaid, or unless the same be altered by some other will or codicil, or other writing of the devisor, signed in the presence of three or more witnesses, declaring such alteration.

No devise in writing, of lands, &c. to be revocable otherwise than, &c.

Appendix, chap. 4, sect. 2. Prov. law.

Sect. 3. *And be it further enacted*, That no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of *Fifty Pounds*, that is not proved by the oath of three witnesses (at the least) that were present at the making thereof, nor unless it be proved that the testator, at the time of pronouncing the same, did bid the persons present, or some of them, to bear witness that such was his will, or to that effect, nor unless such nuncupative will were made in the time of the last sickness of the deceased, and in the house of his or her habitation or dwelling, or where he or she had been resident for the space of ten days or more, next before the making of such will; except where such person was unexpectedly taken sick, being from home, and died before he or she returned to the place of his or her habitation.

Nuncupative will, in what cases good.

Sect. 4. *And be it further enacted*, That no letters testamentary, or probate of any nuncupative will, shall pass the seal of any court of probate, till fourteen days (at the least) after the decease of the testator be fully expired, nor shall any nuncupative will be at any time approved and allowed, unless process shall have first issued, to call in the widow and other person or persons principally interested, if resident within the government, to the end they may contest the same if they please.

Probate of nuncupative wills.

Sect. 5. *And be it further enacted*, That after six months shall have passed after speaking any pretended testamentary words, no testimony shall be received to prove the same as a nuncupative will, unless the said words, or the substance thereof, were reduced to writing within six days after the same testamentary words were spoken.

No testimony to be received to prove such will after six months, unless, &c.

Sect. 6. *And be it further enacted*, That no will in writing, concerning any goods, chattels or personal estate, shall be repealed, nor shall any clause or bequest therein be altered or changed by any words or will, by word of mouth only, except the same be in the life time of the testator committed to writing and read to the testator, and allowed by him in the presence of three credible witnesses at the least. *Provided always*, That notwithstanding

No written will to be repealed, but by writing, except, &c.

Proviso.

notwithſtanding this Act, any ſoldier being in actual military ſervice, or any mariner or ſeaman being at ſea, may diſpoſe of his moveables, wages and other perſonal eſtate, as he might have done before the making of this Act.

SECT. 7. *And be it further enacted*, That when any child ſhall happen to be born after the death of the father, without having any proviſion made in his will, every ſuch poſthumous child ſhall have right and intereſt in the eſtate of his or her father, in like manner as if the father had died inteſtate, and the ſame ſhall be aſſigned to him or her accordingly, and in every ſuch caſe the Judge of Probate ſhall iſſue his warrant as in caſe of inteſtate eſtates, to aſſign to ſuch poſthumous child a ſhare in his or her father's eſtate, equal to what he would have inherited if his or her father had died inteſtate, and the ſame ſhall be taken in proportion from the deviſees and legatees who own the eſtate by virtue of ſuch will.

Poſthumous children to have a proportion.

Appendix, ch. 17, ſect. 1. Prov. law.

SECT. 8. *And be it further enacted*, That any child or children, or their legal repreſentatives in caſe of their death, not having a legacy given him, her or them in the will of their father or mother, ſhall have a proportion of the eſtate of their parents aſſigned unto him, her or them, as though ſuch parent had died inteſtate; provided ſuch child, children or grand-children, have not had an equal proportion of the deceaſed's eſtate beſtowed on him, her or them in the deceaſed's life-time. And when any child, grand-child or other relation having a deviſe of perſonal eſtate or real eſtate, and ſuch deviſee ſhall die before the teſtator, leaving lineal deſcendants, ſuch deſcendants ſhall take the eſtate, real or perſonal, in the ſame way and manner ſuch deviſee would have done in caſe he had ſurvived the teſtator, any law, uſage or cuſtom to the contrary notwithſtanding: Alſo the widow in all caſes may wave the proviſion made for her in the will of her deceaſed huſband, and claim her dower and have the ſame aſſigned her, in the ſame manner as though her huſband had died inteſtate, in which caſe ſhe ſhall receive no benefit from ſuch proviſion, unleſs it appears by the will plainly the teſtator's intention to be in addition to her dower. And as it may ſometimes happen that a will reſpecting lands, and perſonal eſtate, through inattention, or otherwiſe, may be atteſted and ſubſcribed by a leſs number of credible witneſſes, than this Act directs, for deviſing lands, tenements and hereditaments, which, if approved and allowed as a teſtament of perſonal eſtate *only*, might defeat the original intention of the deviſor reſpecting the ſettlement of his eſtate:

Children not having legacies given in the will of their father, to have a proportion of the eſtate aſſigned.

Proviſo. Appendix, ch 17, ſect. 1. When the deviſee or legatee ſhall die in the life time of the teſtator, his lineal deſcendants to have his ſhare.

Wife may have her dower.

See the clauſe reſpecting wife, taken after the will made.

Appendix, ch. 17, ſect. 4. Prov. law.

SECT. 9. *Be it therefore further enacted by the authority aforeſaid*, That any will in writing hereafter offered for probate, which purports a diſpoſition of both real and perſonal eſtate, that ſhall not be atteſted and ſubſcribed as this Act directs, for the deviſing of lands, tenements, and hereditaments, ſhall not be approved and allowed as a teſtament of perſonal eſtate *only*.

Wills in writing offered for probate not atteſted and ſubſcribed, not to be approved and allowed for perſonal eſtate.

SECT.

All eſtates real or perſonal not deviſed or bequeathed, how diſtributed. Appendix, ch. 36, ſect. 2. Prov. law.

SECT. 10. *And be it further enacted*, That all ſuch eſtate, real or perſonal, that is not deviſed or bequeathed in the laſt will and teſtament of any perſon, hereafter to be proved, ſhall be diſtributed in the ſame manner as if it were an inteſtate eſtate, and the executor or executors ſhall adminiſter on the ſame as ſuch. And whereas doubts may ariſe who are to be deemed and taken as legal and credible witneſſes to wills:

Perſons atteſting the execution of wills, to whom, &c. Appendix, chap. 60.

SECT. 11. *Be it further enacted by the authority aforeſaid*, That if any perſon hath atteſted or ſhall atteſt the execution of any will or codicil, to whom any beneficial deviſe, legacy, eſtate, intereſt, gift, or appointment of, or affecting any real or perſonal eſtate, (other than and except charges on lands, tenements, or hereditaments, for the payment of any debt or debts) ſhall be thereby given or made, ſuch deviſe, legacy, eſtate, intereſt, gift, or appointment, ſhall, ſo far only as concerns ſuch perſon atteſting the execution of ſuch will or codicil, or any perſon claiming under him, be utterly void, and ſuch perſon ſhall be admitted as a witneſs to the execution of ſuch will or codicil, ſuch deviſe, legacy, eſtate, intereſt, gift, or appointment, notwithſtanding.

In caſe.

SECT. 12. *And be it further enacted*, That in caſe, by any will or codicil already made or hereafter to be made, any lands, tenements, or hereditaments, are or ſhall be charged with any debt or debts, and any creditor whoſe debt is ſo charged hath atteſted or ſhall atteſt the execution of ſuch will or codicil, every ſuch creditor, notwithſtanding ſuch charge, ſhall be admitted as a witneſs to the execution of ſuch will or codicil.

Perſons atteſting the execution of wills, &c. to whom legacies or bequeſts are given, how they are to be admitted as witneſſes. Proviſo. Appendix, chap. 60.

SECT. 13. *And be it further enacted*, That if any perſon hath atteſted or ſhall atteſt the execution of any will or codicil, to whom any legacy or bequeſt is or ſhall be thereby given, and ſuch perſon, before he or ſhe ſhall give his or her teſtimony concerning the execution of any ſuch will or codicil, ſhall have been paid, or have accepted or releaſed, or ſhall refuſe to accept ſuch legacy or bequeſt, upon tender thereof, ſuch perſon ſhall be admitted as a witneſs to the execution of ſuch will or codicil, notwithſtanding ſuch legacy or bequeſt. *Provided always*, That the credit of ſuch witneſſes as aforeſaid, ſhall be ſubject to the conſideration of the court or jury before whom ſuch witneſs or witneſſes may be examined, or his or her teſtimony or atteſtation made uſe of, in like manner, to all intents and purpoſes, as the credit of other witneſſes in all other cauſes ought to be conſidered of and determined.

In caſe legatees as aforeſaid die in the life time of the teſtator. Appendix, chap. 60.

SECT. 14. *And be it further enacted*, That in caſe any legatee as aforeſaid, who hath atteſted the execution of any will or codicil already made, or ſhall atteſt the execution of any will or codicil which ſhall hereafter be made, ſhall have died in the life time of the teſtator, or before he or ſhe ſhall have received or releaſed the legacy or bequeſt ſo given him or her as aforeſaid,

ſaid, and before he or ſhe ſhall have refuſed to receive ſuch legacy or bequeſt on tender made thereof, ſuch legatee ſhall be deemed a legal witneſs to the execution of ſuch will or codicil, within the intent of this Act, notwithſtanding ſuch legacy or bequeſt.

No perſon to whom beneficial eſtates, &c. are given, which are hereby enacted to be null and void, or who have refuſed to receive any legacies, ſhall demand, &c. Appendix, chap. 60.

Sect. 15. *And be it further enacted*, That no perſon to whom any beneficial eſtate, intereſt, gift, or appointment, ſhall be given or made, which is hereby enacted to be null and void as aforeſaid, or who ſhall have refuſed to receive any ſuch legacy or bequeſt on tender made as aforeſaid, and who ſhall have been examined as a witneſs concerning the execution of ſuch will or codicil, ſhall, after he or ſhe ſhall have been ſo examined, demand or receive any profit or benefit of or from any ſuch eſtate, intereſt, gift, or appointment, ſo given or made to him or her in and by any ſuch will or codicil, or demand, receive or accept from any perſon or perſons whatſoever, any ſuch legacy or bequeſt, or any ſatisfaction or compenſation for the ſame, in any manner whatever.

Executors to cauſe probate of wills to be made in thirty days next after the teſtator's death.

Sect. 16. *And be it further enacted by the authority aforeſaid*, That if any executor or executors of the will of any perſon deceaſed, knowing of their being ſo named and appointed, ſhall not within *thirty days* next after the deceaſe of the teſtator, cauſe ſuch will to be proved and recorded in the Regiſter of Probate's office, of the ſame county where the deceaſed perſon laſt dwelt, or preſent the ſaid will, and in writing declare his, her or their refuſal, every executor ſo neglecting his or her truſt and duty in that behalf, (without juſt excuſe made and accepted by the Judge of Probate for ſuch delay) ſhall forfeit the ſum of *Five Pounds* a month, from and after the expiration of the ſaid thirty days, until he, ſhe or they ſhall cauſe probate of ſuch will to be made, or preſent the ſame as aforeſaid; every ſuch forfeiture to be had and recovered by action of debt in the Court of Common Pleas, in the ſame county, one moiety for him or them that ſhall ſue for the ſame, and the other moiety for the uſe of the legatees named in the ſame will; and upon any ſuch refuſal of the executor or executors, the Judge of Probate ſhall commit adminiſtration of the eſtate of the deceaſed, with the will annexed, unto the widow or next of kin to the deceaſed, or one or more of the deviſees, or in caſe of their refuſal, to one or more of the principal creditors, as he ſhall think fit. And if any perſon ſhall alienate or embezzle any of the goods or chattels of any deceaſed perſon, before he or ſhe have taken out letters of adminiſtration, and exhibited a true inventory of all the known eſtate of the perſon deceaſed, every ſuch perſon ſhall ſtand chargeable and be liable to the actions of the creditors and other perſons aggrieved, as being executors in their own wrong.

Penalty for neglect.

How to be recovered.

On refuſal, adminiſtration to be committed to the widow or next of kin.

Executors in their own wrong.

Executors to give bond, and to return an inventory into the probate office; unless.

SECT. 17. *And be it further enacted*, That every executor named in a will hereafter to be proved, and taking upon him that trust by proving the same, shall give bond to the Judge of Probate, with sufficient surety or sureties, to return upon oath a true and perfect inventory of the testator's estate into the Probate office, within three months, and to render an account of his proceedings thereon, in the same manner administrators are by law obliged to be bound, unless such executor or executors are residuary legatees, in which case bonds may be given by him or them to pay the debts and legacies of the testator; and

In case of neglect.

in case such executor or executors shall neglect or refuse, for the space of twenty days, to give bond as aforesaid, the Judge of Probate may commit administration of the estate of such testator, with the will annexed, to some other person, in like manner as he may grant the same when the executor refuses the trust; and when the executor is under the age of twenty-one years at the time of proving the will, administration may be granted with the will annexed during the minority of such executor. And where there are divers persons named executors, in any will hereafter to be proved, none shall intermeddle and act as such, but those who actually give bond as aforesaid. And

Executor being residuary legatee, may sue his executor.

any executor being a residuary legatee, may bring an action of account against his co-executor or executors of the estate of the testator in his or their hands, and may also sue for and recover his equal and proportionable part thereof; and any other residuary legatee shall have like remedy against the executors. And any person having a legacy given in any last will, may sue for and recover the same at the common law.

When real estate devised is taken in execution, &c. Appendix, chap. 46, sect. 4, 5. Prov. law.

SECT. 18. *And be it further enacted by the authority aforesaid*, That when any testator in and by his last will and testament, hath given or shall give any chattels or real estate to any person or persons, and the same shall be taken in execution for the payment of the testator's debts, or shall be sold therefor as the law provides, in such case all the other legatees, devisees, and heirs, shall refund their average or proportional part of such loss to such person or persons from whom the bequest shall be so taken away, and he or they shall and may maintain a suit or action at law to compel such contribution.

Executors or administrators residing without the government refusing to render their account.

SECT. 19. *And be it further enacted by the authority aforesaid*, That when any executor or executors of any last will and testament, or administrator of an intestate estate, shall reside without the limits of this government, at the time of taking upon him that trust, or shall afterwards remove out of this government, and shall neglect or refuse, after due notice from the Judge of Probate, to render his account and make a settlement of such estate with the creditors, legatees, or heirs, or their legal representatives, or when any executor or administrator shall become insane, or otherwise incapable of, or evidently unsuitable to discharge

charge the truſt repoſed in him, the Judges of Probate in their reſpective counties within this government, are authorized and empowered in ſuch caſes, to grant letters of adminiſtration with the will annexed (or otherways as the caſe may require) to ſuch perſon within this government, as to the ſaid Judge ſhall ſeem meet: And the adminiſtrator thus appointed, ſhall have the ſame power and authority to adminiſter the eſtate of the deceaſed, not adminiſtered upon by ſuch former executor or adminiſtrator, and be ſubjected to the ſame duties, in as full and ample a manner, as if the executor or adminiſtrator ſo removed or reſiding without this government as aforeſaid, were actually dead. And when a *Feme ſole* ſhall jointly with one or more perſons, be appointed executrix or adminiſtratrix, and after ſuch appointment ſhall, during the life of the other co-executor or co-adminiſtrator marry, ſuch marriage ſhall not make the baron an executor or adminiſtrator in her right; but ſhall operate as an extinguiſhment or determination of ſuch woman's power and authority: And the other executor or executors, adminiſtrator or adminiſtrators, may proceed in diſcharging the truſt repoſed in them, in the ſame way and manner as if ſuch woman were naturally dead. And the executor of an executor, ſhall not in conſequence thereof, become an executor of the firſt teſtator; but in every ſuch caſe, adminiſtration may be granted (if the circumſtances of the eſtate require it) upon the goods and eſtate of the firſt teſtator, unadminiſtered upon, with the will annexed, to ſuch perſon or perſons as the Judge of Probate may think fit, any law, uſage or cuſtom to the contrary notwithſtanding.

Judges of Probate empowered in ſuch caſes.

SECT. 20. *Be it further enacted*, That all the Acts and Laws of this Commonwealth now in force, ſo far as they relate to deviſing lands, tenements, hereditaments, and chattels, be, and they are hereby repealed, and made null and void. This Act to be in force from and after the firſt day of *June*, one thouſand ſeven hundred and eighty-four.

All former laws relating to deviſing lands, &c. repealed.

[This Act paſſed *February* 6, 1784.]

An ACT to eſtabliſh a Bank in this State, and to incorporate the Subſcribers thereto.

Addit. Act, Mar. 16, 1784.

WHEREAS the eſtabliſhment of a bank within this State will probably be of great public utility, and as it will be particularly beneficial to the trading part of the community, and many perſons, under the expectation of an Act of incorporation from the Legiſlature of this Commonwealth, have accordingly ſubſcribed thereto; and whereas *William Phillips*, *Iſaac Smith*, *Jonathan Maſon*, *Thomas Ruſſell*, *John Lowell*, and *Stephen Higginſon*, Eſquires, in behalf of ſuch ſubſcribers, have applied for ſuch an Act:

Preamble.

Proprietors of the bank incorporated.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That *William Phillips*, *Iſaac Smith*, *Jonathan Maſon*, *Thomas Ruſſell*, *John Lowell*, and *Stephen Higginſon*, Eſquires, ſo long as they ſhall continue to be proprietors in the ſaid bank, together with all thoſe who are and thoſe who ſhall become proprietors to the ſaid bank, ſhall be a corporation and body politic, under the name of *The Preſident and Directors of the Maſſachuſetts Bank.*

The corporation to be capable in law to have, hold, purchaſe, receive, poſſeſs, enjoy, and retain lands, &c. to a certain amount.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That the ſaid corporation are hereby declared and made able and capable in law, to have, hold, purchaſe, receive, poſſeſs, enjoy, and retain lands, rents, and tenements, to the amount of *Fifty Thouſand Pounds*, and no more at any one time, and alſo monies, goods, chattels, and effects, to the amount of *Five Hundred Thouſand Pounds*, and no more, and alſo to ſell, grant, deviſe, alien, or diſpoſe of the ſame lands, rents, tenements, money, goods, chattels, and effects. *Provided*, That the ſaid Preſident and Directors, nor any or either of them in their ſaid capacity, nor any perſon or perſons for or in behalf of the ſaid corporation or body politic, ſhall at any time, directly or indirectly, uſe or employ any money or monies of the ſaid corporation or body politic, in trade or commerce.

Proviſo.

The corporation to ſue and be ſued.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That the ſaid corporation ſhall be capable in law, to ſue and be ſued, plead and be impleaded, anſwer and be anſwered unto, defend and be defended, in all courts of record, or other courts or places whatſoever; and to do and execute all and ſingular other matters and things, that to them ſhall or may appertain to do.

Officers to be appointed for the well governing and ordering the affairs of the ſaid corporation.

SECT. 4. *And be it further enacted by the authority aforeſaid,* That for the well governing of the ſaid corporation, and the ordering their affairs, they ſhall have ſuch officers as they ſhall hereafter direct and appoint, and that ſuch officers as ſhall be deſignated by the laws and regulations of the ſaid corporation, for the purpoſe, ſhall be capable of exerciſing ſuch power, for the well governing and ordering the affairs of the ſaid corporation, and calling and holding ſuch occaſional meetings for that purpoſe, as ſhall be fixed and determined by the ſaid laws and regulations.

The corporation to make laws not repugnant to the laws of this State.

SECT. 5. *And be it further enacted by the authority aforeſaid,* That the ſaid corporation may make, eſtabliſh, and put in execution, ſuch laws and regulations as may be neceſſary to the government of the ſaid corporation, provided the ſame ſhall in no caſe be repugnant to the laws and conſtitution of this State.

Said corporation to have one common ſeal, and to renew ſaid ſeal.

SECT. 6. *And be it further enacted by the authority aforeſaid,* That the ſaid corporation ſhall have full power and authority to make, have, and uſe a common ſeal, and the ſame to break, alter, and renew at pleaſure.

SECT.

SECT. 7. *And be it further enacted by the authority aforesaid*, That *William Phillips*, *Isaac Smith*, and *Jonathan Mason*, Esquires, be empowered to call a meeting of the subscribers to the said bank, at such time and place as they may think convenient, by advertising the same in two of the *Boston* news-papers, fifteen days before the time of holding the said meeting, at which, or any future meeting of the stockholders, all matters shall be determined by the major votes of persons present at such meeting, who are stockholders, or who represent stockholders; the number of votes to be determined by the number of shares each voter holds or represents; save only, that nothing shall prevent the stockholders from determining, that the holders of a certain number of shares shall be present, or represented at the transaction of any particular business.

William Phillips, Esq. and others, to call a meeting of the subscribers.

SECT. 8. *Provided always*, That any person specially appointed by the Legislature of this State, for that purpose, shall have a right to examine into the affairs of the bank, and shall at all times have access to the bank books.

Proviso.

[This Act passed *February* 7, 1784.]

An ACT for incorporating certain Persons therein named into a Society by the Name of *The Boston Episcopal Charitable Society*.

[This Act passed *February* 12, 1784.]

An ACT to set off *Jacob Smith*, *Joseph Kingsbury*, *Isaac Smith*, and *Enoch Ellis*, from the Town of *Walpole*, in the County of *Suffolk*, and annex them to the third Parish in the Town of *Dedham*, in the said County.

[This Act passed *February* 12, 1784.]

An ACT declaring and confirming the Citizenship of *John Gardiner*, Esq. Barrister at Law, *Margaret Gardiner*, his Wife, and of *Ann Gardiner*, *John Silvester John Gardiner*, and *William Gardiner*, their Children.

[This Act passed *February* 13, 1784.]

An ACT for regulating the Market in *Boston*.

[This Act passed *February* 18, 1784. *Repealed Feb.* 11, 1785.]

An

An ACT for apportioning and eſtabliſhing the Poſſeſſions of the Heirs at Law of *Richard Kent*, Son of *Richard Kent*, late of *Newbury*, deceaſed, to a certain Iſland called *Kent's Iſland*, in *Newbury* aforeſaid.

[This Act paſſed *March* 1, 1784.]

An ACT for reviving one Law now expired, and continuing the ſame, and another Law near expiring.

[This Act paſſed *March* 3, 1784.]

An ACT directing the Settlement of the Eſtates of Perſons deceaſed, and for the Conveyance of Real Eſtates in certain Caſes.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That when the goods and chattels belonging to the eſtate of any perſon deceaſed, or that hereafter may deceaſe, ſhall not be ſufficient to anſwer the juſt debts which the deceaſed owed or legacies given, upon repreſentation thereof, and the ſame being made to appear to the Supreme Judicial Court, at any term or ſitting of the ſaid court, in any county in this Commonwealth, or the Court of Common Pleas in the county where the deceaſed perſon laſt dwelt, or in the county in which the ſaid real eſtate lies, the ſaid courts are ſeverally and reſpectively authorized to empower and licenſe the executor or adminiſtrator of ſuch eſtate to make ſale of all or any part of the houſes, lands or tenements of the deceaſed, ſo far as ſhall be neceſſary to ſatisfy the juſt debts which the deceaſed owed at the time of his death, and legacies bequeathed in and by the laſt will and teſtament of the deceaſed, with incidental charges: And every executor or adminiſtrator being ſo licenſed and authorized as aforeſaid, ſhall and may, by virtue of ſuch authority, make, ſign and execute, in due form of law, deeds and conveyances for ſuch houſes, lands or tenements as they ſhall ſo ſell, which inſtruments ſhall make as good a title to the purchaſer, his heirs and aſſigns, forever, as the teſtator or inteſtate, being of full age, of ſane mind and memory, in his or her life time, might or could for a valuable conſideration.—*Provided always*, That the executor or adminiſtrator, before ſale be made as aforeſaid, give thirty days public notice by poſting up notifications of ſuch ſale in the town or plantation where the lands lie, as well as where the deceaſed perſon laſt dwelt, and in the two next adjoining towns, as

Supreme Judicial Court empowered to licenſe executors to make ſale of lands, &c.

Appendix, ch. 13, ſect. 1, and chap. 70, ſect. 1, 2. Prov. law.

Proviſo.

Manner of giving notice.

as alſo in the ſhire town of the county; and whoſoever will give moſt, ſhall have the preference in ſuch ſale; and in caſe it be an inſolvent eſtate, the whole produce of ſuch ſale ſhall be divided in due proportion to and among the creditors.

And whereas, by the partial ſale of real eſtates for the payment of debts or legacies as aforeſaid, it often happens that the remainder thereof is much injured: Maſſachuſetts Act, Feb. 18, 1789.

SECT. 2. *Be it therefore enacted, by the authority aforeſaid*, That whenever it ſhall be neceſſary that executors or adminiſtrators ſhall be empowered to ſell ſome part of the real eſtate of deceaſed teſtators or inteſtates, or for guardians to ſell ſome part of the real eſtates of minors or perſons *non-compos-mentis*, for the payment of juſt debts, legacies or taxes, or for the ſupport or legal expenſes of minors or perſons *non-compos-mentis*, and by ſuch partial ſale the reſidue of ſuch real eſtates would be greatly injured, and the ſame ſhall be repreſented and made to appear to the Juſtices of either of the aforeſaid courts, on petition, and declaration filed, and duly proved therein, by the ſaid executors, adminiſtrators, or guardians, the Juſtices of the aforeſaid courts reſpectively, may authorize and empower ſuch executors, adminiſtrators or guardians, to ſell and convey the whole or ſo much of ſuch real eſtates, as ſhall be moſt for the intereſt and benefit of the parties concerned therein, at public auction, and good and ſufficient deed or deeds of conveyance thereof to make and execute; which deed or deeds, when duly acknowledged and recorded in the regiſtry of deeds for the county where the ſaid real eſtate lies, ſhall make a complete and legal title in fee to the purchaſer or purchaſers thereof; provided the ſaid executors, adminiſtrators or guardians, give thirty days public notice of ſuch intended ſale in manner and form herein before preſcribed; and provided alſo they firſt give bonds, with ſufficient ſureties, to the Judge of Probate for the county where the deceaſed teſtator or inteſtate laſt dwelt, and his eſtate inventoried, that he or ſhe will obſerve the rules and directions of law for the ſale of real eſtates by executors or adminiſtrators, and that the proceeds of the ſaid ſale, after the payment of juſt debts, legacies, taxes, and juſt debts for the ſupport of minors, and other legal expenſes and incidental charges, ſhall be put on intereſt on good ſecurity, and that the ſame ſhall be diſpoſed of agreeable to the rules of law. Executors, &c. empowered to ſell real eſtates for payment of debts. Appendix, ſect. 1. above.

SECT. 3. *And be it further enacted*, That every repreſentation to be made as aforeſaid, ſhall be accompanied with a certificate from the Judge of Probate of the county where the deceaſed perſon's eſtate was inventoried, certifying the value of the real eſtate and the value of the perſonal eſtate of ſuch deceaſed perſon, and the amount of his or her juſt debts; and alſo his opinion whether it be neceſſary that the whole or a part of the eſtate ſhould be ſold, or if part only, what part. Repreſentations made to be accompanied with a certificate of the Judge of Probate.

And

Juſtices to notify the parties concerned.

In caſe.

And the ſaid Juſtices, previous to their paſſing on the ſaid repreſentation, ſhall order due notice to be given to all parties concerned, or their guardians, who do not ſignify their conſent to ſuch ſale, to ſhew cauſe, at ſuch time and place as they ſhall appoint, why ſuch licenſe ſhould not be granted. And in caſe any perſon concerned in the ſaid ſale be not an inhabitant of this Commonwealth, nor have any guardian, agent or attorney therein, who may repreſent him or her, the ſaid Juſtices may cauſe the ſaid petition to be continued for a reaſonable time; and the petitioner or petitioners ſhall give perſonal notice of the ſaid petition to ſuch abſent perſon, his or her agent, attorney or guardian, or cauſe the ſame to be publiſhed in ſome one of the *Boſton* news-papers, three weeks ſucceſſively. And the ſaid Juſtices, where they may think it expedient, may examine the ſaid petitioner or petitioners, on oath, touching the truth of facts ſet forth in the ſaid petition, and the circumſtances attending the ſame.

And whereas it may be often neceſſary to enable the repreſentatives of perſons deceaſed, to perform the engagements entered into by ſuch deceaſed perſons for the transfer of real eſtates:

Juſtices to grant licenſe to executors or adminiſtrators to convey real eſtate in certain caſes.

SECT. 4. *Therefore be it further enacted*, That whenever it ſhall be repreſented and made to appear to the Juſtices of either of the aforeſaid courts, in form aforeſaid, by any perſon or perſons, contracted with by bond, covenant or other contract under ſeal, that a deceaſed teſtator or inteſtate, in his or her life time, entered into ſuch bond, covenant or contract, to convey ſome real eſtate to him or her, but was prevented by death; and that ſuch perſon or perſons, contracted with as aforeſaid, have, on his, her or their part performed, or ſtand ready to perform, the conditions of ſuch bond, covenant or contract made with the deceaſed, the ſaid Juſtices may, after due notice given to all concerned as aforeſaid, in form aforeſaid, and a full hearing had, grant licenſe to, and empower the executors or adminiſtrators of ſuch deceaſed obligor, convenantor or contractor, to make and execute ſuch conveyance or conveyances, to ſuch perſon or perſons contracted with as aforeſaid, as it ſhall appear the ſaid obligor, covenantor or contractor, would by his bond, covenant or contract, be obliged to make and execute, in caſe he, ſhe or they, were living at the time of the performance of the conditions of the bond, covenant or contract by the contractees on their part, making reaſonable allowances for any alteration, improvements or injuries, that may be made or done in the ſame eſtate ſince ſuch contract was made, as the ſaid Juſtices may award; which conveyance or conveyances, when the inſtruments thereof are duly acknowledged and recorded in the regiſtry of deeds for the county where ſuch eſtate ſhall lie, ſhall be good and valid; and the monies or conſideration paid

paid for such estate, if not paid to the deceased contractor in his life time, shall be assets in the hands of the said executors or administrators, and be apportioned among the representatives of the deceased as other personal estate.

Justices of the Supreme Judicial Court, after full examination on the oath of petitioners, may authorize persons to sell and convey estates.

SECT. 5. *Be it further enacted by the authority aforesaid*, That when it shall fully appear to the Justices of the Supreme Judicial Court aforesaid, by the petition and representation of the friends or guardians of minors interested in the real estate of any deceased testator or intestate, that it would be for the benefit of such minors, or persons *non-compos-mentis*, that their interest therein should be disposed of, and the proceeds thereof be put out and secured to them on interest, the said Justices last mentioned, after a full examination on the oath of the petitioner or otherwise, may authorize some suitable person or persons to sell and convey such estate or part thereof, by deed or deeds duly acknowledged and recorded in the registry of deeds as aforesaid; provided such person or persons first give bond, with sufficient sureties, to the Judge of Probate for the county where the said deceased person last dwelt, to observe the rules and directions of law in the sale of real estates by executors or administrators in the first enacting clause herein prescribed; and to account for and make payment of the proceeds of the said sale, agreeable to the rules of law. *Provided*, That the said Judge of Probate shall certify that the whole or a part of the said estate is, in his opinion, necessary to be sold, or if part only, what part.

Proviso.

Justices to award reasonable costs.

SECT. 6. *And be it further enacted*, That when it shall appear to the said Justices, on examination, that the said petition or petitions, in any of the foregoing applications, are unreasonable, the said Justices may award reasonable costs to such respondents as shall appear and object thereto.

Real estates liable to be taken and levied upon executions issuing. Appendix, ch. 13, sect. 1. ch. 46, sect. 4. Prov. law.

SECT. 7. *And be it further enacted*, That the real estate of any testator or intestate, is and shall be liable to be taken and levied upon by any execution issuing upon judgments recovered against executors or administrators, in such capacity, being the proper debts of the testator or intestate, and that the method of levying, appraising and recording, shall be the same as by law is provided respecting other real estates levied upon and taken in execution, and may be redeemed by the executor, administrator or heir, in like time and manner.

Executors, &c. neglecting to raise money.

SECT. 8. *And be it further enacted*, That when any executor or administrator shall neglect or unreasonably delay to raise money out of the testator's or intestate's estate, by collecting the debts due to such estate, and by selling the personal estate, or the real estate (if need be, and he has power or can obtain license to sell the same) or shall neglect to pay what he has in his hands, and by such neglect or delay shall subject the testa-

tor's

To be deemed waſte, &c. in ſuch executor.

tor's or inteſtate's real or perſonal eſtate to be taken in perſonal execution, the ſame ſhall be deemed waſte and unfaithful adminiſtration in ſuch executor or adminiſtrator.

How writs of attachment and executions ſhall run.

SECT. 9. *And be it further enacted*, That all writs of attachment and executions, ſhall run only againſt the goods or eſtate of the party deceaſed, in the hands of executors or adminiſtrators, and not againſt their bodies; nor ſhall any executor or adminiſtrator be held to ſpecial bail upon mean proceſs, nor his own proper goods or eſtate be attached, or his perſon be arreſted or taken in execution for the debts or legacies of the teſtator or inteſtate, but upon ſuggeſtion of waſte, founded on a return made by the Sheriff, that he could not find any goods or eſtate of the teſtator or inteſtate; in which caſe a writ commonly called *ſcire facias*, ſhall be iſſued out of the Clerk's office of the ſame court, againſt ſuch executor or adminiſtrator, which writ being duly ſerved and returned, if the executor or adminiſtrator make default of appearance or coming in, ſhall not ſhew cauſe ſufficient to the contrary, execution ſhall be adjudged and awarded againſt him of his own proper goods and eſtate to the value of ſuch waſte, where it can be aſcertained, otherways for the whole ſum recovered; and for want of goods or eſtate, againſt the body of ſuch executor or adminiſtrator.

In caſe of the death of an appellant or appellee, before the ſitting of the court appealed unto.

SECT. 10. *And be it further enacted*, That in caſe of the death of any party, either the appellant or appellee, before the ſitting of the court appealed unto, or where any action or ſuit is or ſhall be depending, either in the Court of Common Pleas, or in the Supreme Judicial Court, in any county of this Commonwealth, and it ſo happen that either party be taken away by death before final judgment, the executor or adminiſtrator of ſuch deceaſed party, who was plaintiff, complainant or defendant (in caſe the cauſe of action doth by law ſurvive) ſhall have full power to proſecute or defend any ſuch ſuit or action from court to court, until final judgment; and the defendants or appellees are hereby obliged to anſwer to ſuch actions accordingly; and the Juſtices of the Court of Common Pleas and Supreme Judicial Court reſpectively, before whom ſuch cauſes are or may be triable and depending, are hereby empowered and directed to hear and determine all ſuch cauſes, proceed to judgment, and award execution accordingly: And if it ſhall ſo happen that the executor or adminiſtrator of the deceaſed hath not ſuitable time in the judgment of the court where ſuch action or ſuit ſhall be pending, and doth by law ſurvive as aforeſaid, to prepare for managing the cauſe, or to become duly qualified to proſecute or defend the ſame; in ſuch caſe it ſhall and may be lawful for the court to ſuſpend the hearing and trying thereof until the next term. And if by the verdict of a jury, or by the default or neglect of the executor or adminiſtrator, in proſecuting or defending ſuch ſuit, after the executor or adminiſ-

Vid. Act of Mar. 17, 1784.

trator

trator ſhall have appeared and undertaken in his capacity to proſecute or defend the ſuit, judgment paſs againſt the executor or adminiſtrator, the Supreme Judicial Court and Court of Common Pleas are hereby reſpectively authoriſed, empowered and directed, to enter up judgment for or againſt the eſtate of the deceaſed, in their hands and under their adminiſtration, as the caſe may require.

Judges of Probate empowered to examine upon oath perſons ſuſpected and complained of by executors or adminiſtrators.

SECT. 11. *And be it further enacted*, That each Judge of Probate within his county be, and hereby is fully authorized and empowered, to call before him and to examine upon oath, any perſon ſuſpected and complained of by any executor or adminiſtrator, heir, creditor, legatee or other perſon, having lawful right or claim to the eſtate of any perſon deceaſed, to have concealed, embezzled or conveyed away any of the money, goods or chattels left by the teſtator or inteſtate, for the diſcovery of the ſame. And if the perſon ſuſpected and complained of as aforeſaid, ſhall refuſe to be examined, or to anſwer interrogatories, upon oath, reſpecting the eſtate which he or ſhe may be ſuſpected of concealing, embezzling or conveying away, it ſhall and may be lawful for, and the ſaid Judge is hereby empowered to commit ſuch perſon, ſo refuſing to be examined or anſwer interrogatories upon oath as aforeſaid, unto the common gaol of the county, there to remain until he or ſhe ſhall conſent to be examined and anſwer interrogatories upon oath as aforeſaid, or be releaſed by the conſent of the perſon ſuſpecting and complaining againſt him or her, or by order of the Supreme Judicial Court.

Judges of Probate empowered to convene before them any perſon intruſted with any eſtate of teſtators or inteſtates.

SECT. 12. *And be it further enacted*, That the ſeveral Judges of Probate be, and hereby are empowered, to convene before them any perſon that has been or may hereafter be intruſted by any executor or adminiſtrator with any part of the eſtate of the teſtator or inteſtate (and to be aſſiſting to ſuch executor or adminiſtrator in the execution of their truſt) who ſhall refuſe, upon a citation iſſued from the Judge of Probate for that purpoſe, to appear before him, and render a full account, upon oath, of any money, goods or chattels, and of any bonds, accounts or other papers belonging to the eſtate of the teſtator or inteſtate, which he ſhall have taken into his hands or cuſtody; and of his proceeding for and in behalf of ſuch executor or adminiſtrator in his capacity as ſuch. And if ſuch perſon ſhall refuſe to render account as aforeſaid, ſuch Judge may proceed againſt him in the way and manner before directed for perſons ſuſpected of concealment, who refuſe to anſwer interrogatories upon oath.

Witneſſes refuſing to appear.

SECT. 13. *And be it further enacted*, That when any perſon ſhall be cited to appear as a witneſs before the Judge of Probate in any cauſe or hearing, and ſuch perſon ſhall refuſe to appear or give evidence, he or ſhe ſhall be liable to the like penalty

Penalty.

penalty or damage as such person would be liable unto for refusing to appear or give evidence in any Court of Common Pleas.

In cases where appraisers, &c. have been appointed.

SECT. 14. *And be it further enacted,* That in all cases where the appraisers, commissioners or dividors, appointed by the Judge to perform any service respecting the estate of any person deceased, or persons appointed to set off the widow's dower therein, and are by law directed to be under oath, or sworn by the Judge of Probate, they may be sworn before a Justice of the Peace; and in case there be no Justice of the Peace in the same town, they may be sworn before the Town-Clerk; a certificate of such oath to be returned to the Probate-Office from whence the warrant or commission appointing them issued.

[This Act passed *March* 4, 1784.]

An ACT for settling the Estate of *Benjamin White*, late of *Brookline*, Yeoman, deceased, according to the Intendment of the Last Will and Testament of the said *Benjamin*.

[This Act passed *March* 5, 1784.]

An ACT in Addition to an Act, entitled, "An Act to incorporate *Jonathan Gardner*, jun. and others, therein named, into a Society by the name of *The Marine Society at Salem*, in the County of *Essex*, in the Province of the *Massachusetts-Bay*, in *New-England*."

[This Act passed *March* 9, 1784.]

An ACT for empowering certain Persons to examine the Sales that have been made by the *Moheakunnuk* Tribe of Indians, and for regulating the future Sales and Leases of all Lands from the said Tribe of Indians.

[This Act passed *March* 9, 1784.]

June 8, 1789, an additional Act, by which the oldest son has a single share.

An ACT directing the Descent of intestate Estates, and for empowering the Judge of Probate to make Partition in certain Cases.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That when any person shall die seized of lands, tenements or

or hereditaments, not by him deviſed, the ſame ſhall deſcend in equal ſhares to and among his children, and ſuch as ſhall legally repreſent them (if any of them be dead) except the eldeſt ſon then ſurviving, who ſhall have two ſhares, if there is no iſſue of an older ſon, in which caſe ſuch iſſue and lineal deſcendant, or deſcendants of ſuch iſſue, ſhall have two ſhares in right of the father, although the father died before the grandfather; and in every caſe where children ſhall inherit by repreſentation, it ſhall be in equal ſhares; and where there are no children of the inteſtate, the inheritance ſhall deſcend equally to the next of kin, in equal degree, and thoſe who repreſent them, computing by the rules of the civil law—no perſon to be conſidered as a legal repreſentative of collaterals beyond the degrees of brothers' and ſiſters' children; and for want of heirs the eſtate ſhall accrue to the Commonwealth. And when any of the children of an inteſtate die before his arrival to the age of twenty-one years, and unmarried, ſuch deceaſed child's ſhare ſhall deſcend equally among the ſurviving brothers and ſiſters, and ſuch as legally repreſent them; but if ſuch deceaſed child die after having arrived to the age of twenty-one years, unmarried and inteſtate, in the life time of the mother, every brother and ſiſter ſhall inherit equally with the mother.

Lands not deviſed, how they ſhall deſcend. Appendix, chap. 3, ſect. 2. Prov. law, ch. 28, ſect. 2, ch. 36, ſect. 3, ch. 44, ſect. 3.

SECT. 2. *And be it further enacted*, That when any perſon ſhall die poſſeſſed of any chattels or perſonal eſtate, not by him bequeathed, the ſame ſhall be diſtributed among his heirs, in the ſame way and manner real eſtates deſcend by this Act.

Perſonal eſtate not bequeathed, how to be diſtributed.

SECT. 3. *Provided nevertheleſs, and it is enacted*, That ſuch chattels or perſonal eſtate, ſhall ſtand chargeable with the payment of all the juſt debts and funeral charges of the deceaſed; and after the payment thereof, the ſurpluſage (if any there be) ſhall, by the Judge of Probate, be decreed, one third part to the widow of the deceaſed forever, unleſs the inteſtate died without iſſue, in which caſe ſhe ſhall have one half thereof forever. And when the perſonal eſtate ſhall be inſufficient to pay the debts and funeral charges of the deceaſed, the widow ſhall nevertheleſs be entitled to her apparel, and ſuch other of the perſonal eſtate as the Judge of Probate ſhall determine neceſſary, according to her quality and degree; and ſuch part of the perſonal eſtate as the Judge may allow the widow, ſhall not be aſſets in the hands of the executor or adminiſtrator. And the real eſtate ſhall ſtand chargeable with all the debts of the deceaſed, over and above what the perſonal ſhall be ſufficient to pay as aforeſaid.

Proviſo. Perſonal eſtate liable firſt to pay debts; widow's part; her apparel, &c.

Real eſtate chargeable for payment of debts.

SECT. 4. *And be it further enacted*, That the widow of the deceaſed ſhall in all caſes be entitled to her dower in the real eſtate, (where ſhe ſhall not have been otherways endowed before marriage) and to a recovery of the ſame in manner as the law directs. And after the payment of debts, funeral expenſes, and the

Widows entitled to their dower.

the charges neceſſarily incurred in the ſettlement of any eſtate, are deducted, the Judge of Probate of the county where the deceaſed was an inhabitant or reſident, at the time of his death, ſhall cauſe the reſidue, whether it be ſituate in the county in which he is Judge, or any other county in the government, to be divided, and partition thereof to be made among the children or heirs as this Act directs; unleſs it ſhall ſo happen, that ſome one or more of the children or grand-children, ſhall have portions of the inteſtate aſſigned or delivered them by him in his life time; in which caſe ſuch portions ſhall be taken into conſideration, and deducted from their ſhares in ſuch partition reſpectively.

Appendix, ch. 44, ſect. 1. Prov. law.

When a man and his wife ſhall be ſeized of lands, &c. in her right, and ſhe die, how it ſhall be held. Proviſo.

SECT. 5. *And be it further enacted*, That when a man and his wife ſhall be ſeized of lands, tenements, or hereditaments, in her right in fee, and iſſue ſhall be born alive of the body of ſuch wife, that may inherit the ſame, and ſuch wife ſhall die, the huſband ſhall have and hold ſuch eſtate during his natural life, as tenant by the courteſy. *Provided always*, That when the real eſtate cannot be divided among all the children, or their legal repreſentatives, without great prejudice to, or ſpoiling the whole, the Judge of Probate may order the whole to the eldeſt ſon, if he accept the ſame, or to any other of the ſons ſucceſſively, on his refuſal, he paying unto the other children of the deceaſed, their equal and proportionable ſhares of the true value thereof, upon an appraiſement to be made by three diſintereſted freeholders, appointed by the Judge for that purpoſe, and under oath; or giving good ſecurity to pay the ſame, in ſuch convenient time as the ſaid Judge ſhall limit and appoint, making reaſonable allowance in the interim, not exceeding ſix per cent. per annum.

Appendix, ch. 3, ſect. 2. Prov. law.

When real eſtates of inteſtates will accommodate more than the eldeſt ſon, the Judge of Probate directed in this caſe. Appendix. ch. 36, ſect. 3. Prov. law.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That when the real eſtate of an inteſtate will conveniently accommodate more of the children than the eldeſt ſon, or his legal repreſentatives, the Judge of Probate may ſettle the ſame on as many of the children (preference being always given to the ſons) as it will accommodate, without prejudice to, or ſpoiling the whole; or in caſe the inteſtate left no iſſue, the ſame may be aſſigned to one or ſo many of the next of kin to the inteſtate, in equal degree, or their legal repreſentatives, as ſuch eſtate will conveniently accommodate without prejudice to, or ſpoiling the whole, (preference being given to the male heirs among ſuch as are of kin in equal degree.) And to the end there may be ſome method preſcribed for determining what ſhall be ſaid to be advancing a child by ſettlement, in the life time of the inteſtate:

What ſhall be deemed an advancement to children of lands or perſonal eſtate.

SECT. 7. *Be it further enacted*, That any deed of lands or tenement made for love and affection, or where any perſonal eſtate delivered a child ſhall be charged in writing by the inteſtate, or by his order, or a memorandum made thereof, or delivered expreſsly for that purpoſe, before two witneſſes who were bid to take

take notice thereof, the same shall be deemed and taken an advancement to such child or children to the value of such lands, tenements, or personal estate, within the intent of this Act. Appendix, chap. 3, sect. 2. Prov. law.

Persons dying intestate, administration to be granted to the widow, or next of kin, and an inventory to be taken of the estate.

SECT. 8. *And be it further enacted*, That after the decease of any person intestate, administration of such intestate's goods and estate shall be granted unto the widow, or next of kin to the intestate, (upwards of twenty-one years of age) or both, as the Judge of Probate shall think fit, within thirty days, or sooner, and an inventory taken of all the estate of the deceased, within three months or sooner, by three suitable persons appointed by, and sworn before the Judge of Probate, for the faithful discharge of that trust. And after the expiration of thirty days from the death of any person intestate, in case the widow or next of kin, shall refuse or neglect to take out letters of administration, being cited before the Judge for that purpose, in case they are resident within the county, he may commit administration of any such estate to some one or more of the principal creditors, if accepted by them or others, as he shall think fit upon their refusal; and every administrator shall, before he or she shall enter upon the execution of that trust, give bond to the Judge of Probate, with good and sufficient sureties, upon condition among other things, to make and return a true inventory of the estate administered on into the Probate Office, within three months, and to render an account of administration, within one year from the time of taking administration, which bond shall be in the form following:

In case of refusal of the widow or next of kin, administration to be granted to some one of the principal creditors.

Administrators to give bonds.

Form of the bond.

Know all Men by these Presents, That we within the Commonwealth of *Massachusetts*, are holden, and stand firmly bound and obliged unto Esq. Judge of Probate of wills, and granting administration within the county of in the full sum of *Pounds*, in lawful money, of said Commonwealth, to be paid unto the said his successors in the said office, or assigns; to the true payment whereof, we do bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, for the whole and in the whole, firmly by these presents. Sealed with our seals, dated the day of *Anno Domini*, one thousand seven hundred and

The condition of this present obligation is such, That if the above bounden do make or cause to be made, a true and perfect inventory of all and singular the goods, chattels, rights, and credits, of the said deceased, which have or shall come to the hands, possession or knowledge of the said or into the hands and possession of any other person or persons for and the same so made, do exhibit, or cause to be exhibited, into the Registry of the Court of Probate, for the said county of

of at or before the day of next enſuing; and the ſame goods, chattels, rights, and credits, and all other the goods, chattels, rights, and credits of the ſaid deceaſed, at the time of death, which at any time after ſhall come to the hands and poſſeſſion of the ſaid or into the hands and poſſeſſion of any other perſon or perſons for do well and truly adminiſter according to law: And further do make or cauſe to be made, a juſt and true account of ſaid adminiſtration, upon oath, at or before the day of which will be the year of our Lord, one thouſand ſeven hundred and And all the reſt and reſidue of the ſaid goods, chattels, rights, and credits, which ſhall be found remaining upon the ſaid adminiſtrat account (the ſame being firſt examined and allowed of by the Judge or Judges, for the time being, of probate of wills, and granting adminiſtrations within the county of aforeſaid) and ſhall deliver and pay unto ſuch perſon or perſons reſpectively, as the ſaid Judge or Judges, by his or their decree or ſentence, purſuant to law, ſhall limit and appoint: And if it ſhall hereafter appear, that any laſt will and teſtament was made by the ſaid deceaſed, and the executor or executors therein named, do exhibit the ſame into the Court of Probate, for the ſaid county of making requeſt to have it allowed and approved accordingly; if the ſaid within bounden being thereunto required, do render and deliver the ſaid letter of adminiſtration (approbation of ſuch teſtament being firſt had and made) into the ſaid court: Then the before-written obligation to be void and of none effect, or elſe to abide and remain in full force and virtue.

Sealed and delivered in preſence of us.

Where two or more have letters of adminiſtration granted, and one or more of them take all or part of the inteſtate eſtate, and refuſe to account with the other adminiſtrator, the one aggrieved may bring his action.

SECT. 9. *And be it further enacted*, That where two or more have letters of adminiſtration granted them of any inteſtate eſtate, and one or more of them take all or the greateſt part of ſuch eſtate into his or their hands, and refuſe to pay the debts or funeral charges of ſuch inteſtate, or refuſe to account with the other adminiſtrator, then and in ſuch caſe it ſhall and may be lawful for ſuch aggrieved adminiſtrator to bring his action of account againſt the other adminiſtrator or adminiſtrators, and recover his proportionable ſhare of ſuch inteſtate's eſtate as ſhall belong or appertain to him.

No adminiſtration to be granted until,

SECT. 10. *And be it further enacted*, That no adminiſtration of the goods or eſtate of any deceaſed perſon, not adminiſtered upon by a former adminiſtration or executor, ſhall be granted, until it ſhall evidently appear to the Judge of Probate, by the oath

oath of the party applying therefor, or otherways, that there is such personal estate of the deceased, to the amount of *Five Pounds*, or upwards, or debts of the like or greater value, due from the deceased's estate unpaid. Nor shall administration be originally granted upon the estate of any deceased person, after the expiration of twenty years, from the death of such person.

Judges of Probate empowered when they make out their warrants for a division of real estates, to direct the committee in this case. Appendix, chap. 3, sect. 4, Prov. law.

SECT. 11. *And be it further enacted*, That the respective Judges of Probate, within this government, be, and hereby are directed and empowered, when they make out their warrants for the division of the real estate of any person dying intestate to and among the heirs, or for assigning the widow's dower, where such estate or any part thereof lies in common or undivided with the real estate of any other person, to direct the committee named in such warrant, first to sever and divide the intestate's estate from the estate with which it lies in common as aforesaid; the said committee to give timely notice to all parties interested, to be present if they see cause; and such division so made and accepted by the Judge, and duly recorded in the Probate office for the same county, shall be binding on all persons interested. *Provided*, That where any minors or persons *non compos*, or otherwise incapacitated to take care of their estates, are interested in either estates, or out of the government, guardians shall be appointed over them, and some discreet person shall be appointed by the Judge to represent and act for such absent party before such division is made. *Provided also*, That before the order of such division issue, it be made to appear to the Judge of Probate, that the several persons interested in such estate, if living within this government, or the attorney of such as are absent, and have attornies residing within this government, have been duly notified of such partition, and have had opportunity to make their exception to the same.

Proviso.

When devisees make application for a division, it shall be lawful for the Judge of Probate to order the whole of the real estate to be divided. Appendix, ch. 66, sect. 4, 5. Prov. law.

SECT. 12. *And be it further enacted*, That when and so often as any devisee (or his guardian) who holds any real estate, in partnership with any person or persons, by force of any last will and testament, shall make application to the Judge of Probate of wills, &c. in the county where such estate lies, for a division thereof, it shall and may be lawful for such Judge of Probate to order the whole of the real estate so devised, (or that part of it the partition whereof is requested) to be divided to and among the devisees, in proportion according to the will of the testator, by five or three good and discreet freeholders of the same county, to be appointed by and sworn before the said Judge, to the due performance of that service; notice being first given to all parties concerned to be present at the making of such partition, if they see cause, which partition or division being returned into the Probate office, and approved by the Judge, and there recorded, shall be valid in the law to all in-

tents and purpoſes, unleſs upon the appeal of any party aggrieved at the partition ſo made, the ſame ſhould be reverſed or altered before the Supreme Court of Probate. And whereas it ſometimes happens, that real eſtates deviſed by will, lie in common and undivided with other real eſtates:

Partition to be made between the eſtate given by will, and any other land. Appendix, chap. 3, ſect. 4, Prov. law.

SECT. 13. *Be it further enacted*, That in every ſuch caſe it ſhall and may be lawful for the ſaid Judge of Probate, to order and direct the freeholders aforeſaid, firſt to make partition between the eſtate given by will, and any other land or real eſtate lying in common therewith, in the ſame way and manner as is before provided for dividing inteſtate eſtates from any other eſtates, with which they may lay in common. *Provided*, That no partition ſhall be made when the proportion belonging to the deviſees, or any of them, ſhall by the tenor of the deviſee, appear to be diſputable and uncertain. *Provided alſo*, That where any of the intereſted are minors, or perſons *non compos* or otherways incapacitated to take care of their eſtates, or out of the government, guardians ſhall firſt be appointed for ſuch minors or perſons *non compos*, or otherways incapacitated, and ſome diſcreet and diſintereſted perſon ſhall be appointed by the ſaid Judge, to repreſent and act for ſuch abſent party.

Proviſo.

Appendix, ch. 36, ſect. 4. ch. 66, ſect. 5. Prov. law.

Parties refuſing to pay charges of diviſion, the Judge of Probate to iſſue a warrant of diſtreſs.

SECT. 14. *And be it further enacted*, That when partition or diviſion ſhall be made by any Judge of Probate, of the real eſtate of any deceaſed perſon, agreeable to the method before preſcribed, and any one or more of the intereſted party, ſhall neglect or refuſe to pay their juſt proportion of the charge, which may attend ſuch diviſion or ſettlement, it ſhall and may be lawful for the Judge to iſſue a warrant of diſtreſs againſt any delinquent or delinquents intereſted as aforeſaid, provided an account of ſuch charge be firſt laid before the Judge, and the juſt proportion of the perſon intereſted, ſettled and allowed, they having been duly notified to be preſent at ſuch ſettlement or allowance.

Proviſo.

Settlements to be made when any meſſuage, &c. is of greater value than either party's part.

SECT. 15. *And be it further enacted*, That when any meſſuage, tract of land, or other tenement, ſhall be of greater value than either party's part or ſhare in the eſtate to be divided, and cannot at the ſame time be ſubdivided, or part thereof aſſigned to one and part to another, (without great inconvenience) the ſame may be ſettled or aſſigned to one of the parties, ſuch party to whom the ſame ſhall be ſo aſſigned paying ſuch ſum or ſums of money to ſuch party or parties, as by means thereof have leſs than their ſhare of the real eſtate, as the committee appointed to make partition ſhall award.

Juſtices of the Peace empowered to appoint the appraiſers, in caſe.

SECT. 16. *Be it further enacted*, That in caſe the eſtate of any perſon dying inteſtate, ſhall lay more than ten miles from the dwelling-place of the Judge of Probate, of the county in which ſuch eſtate lies, then it ſhall and may be lawful for any Juſtice of the Peace to appoint the appraiſers of ſuch eſtate; and

and in case any part of the estate of any person dying testate or intestate, shall lay without the limits of the county of the Judge of Probate, to whom it appertains to act as such in the settlement of the same, then it shall and may be lawful for any Justice of the Peace to appoint the appraisers of such part of such estate; and in both the cases last mentioned, the Justice of the Peace appointing appraisers, shall administer to them the necessary oaths, and shall certify the same, together with the appointment, which shall be considered as valid and effectual in law as if such persons were appointed and sworn by the Judge of Probate, any thing in this Act to the contrary notwithstanding.

Provided nevertheless, That every administrator shall be held to account with the Judge of Probate for the personal estate of the deceased, as the same shall be appraised, unless the Judge shall think it will be more for the benefit of those concerned otherwise to dispose of the same; in which case the said Judge shall order the same, or any part thereof, to be sold at public auction or at private sale, in such manner as he shall determine will best serve the interest of all persons concerned, and the administrator shall account for such estate as the same was sold. Proviso.

Whereas it sometimes happens, that for want of prudent management in executors, administrators or guardians, who are empowered to sell real estates, such estates are disposed of below their true value, to the great injury of the heirs and creditors:

SECT. 17. *Be it therefore enacted by the authority aforesaid*, That every executor, administrator or guardian, who may obtain a legal order for selling real estate, shall, previous to the sale, before some Justice of the Peace, take the following oath: Executors, &c. to be under oath previous to sales.

"I A. B. do solemnly swear, that in disposing of the estate lately belonging to now deceased, I will use my best skill and judgment in fixing on the time and place of sale; and that I will exert my utmost endeavours to dispose of the same in such manner as will produce the greatest advantage to all persons interested therein, and that, without any sinister views whatever." Form of the oath.

And the said executor, administrator or guardian, shall return to the Judge of Probate a certificate of the same, under the hand of the Justice before whom such oath was taken.

[This Act passed *March* 9, 1784.]

An ACT directing the Mode of transferring Real Estates by Deed, and for preventing Fraud therein.

Addit. Act, June 28, 1787.

WHEREAS it is necessary (to prevent uncertainty, fraud and perjury in the transferring real estates) that a mode therefor should be established, easy, certain and notorious: Preamble.

Parole leaſes, &c. to have the force of eſtates at will only. Appendix, ch. 4, ſect. 1, Prov. law.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That all leaſes, eſtates, intereſts of freehold, or terms of years, or any uncertain intereſts of, in or out of any meſſuages, lands, tenements, or hereditaments, made or created by livery and ſeizen only, or by parole, and not put in writing, and ſigned by the parties ſo making or creating the ſame or their agents thereunto lawfully authorized by writing, ſhall have the force and effect of leaſes or eſtates at will only; and ſhall not either in law or equity, be deemed or taken to have any other, or greater force or effect; any conſideration for making any ſuch parole, leaſes, or eſtates, notwithſtanding. And no leaſes, eſtates, or intereſts, either of freehold or term of years, or any uncertain intereſt of, in, to, or out of any meſſuages, lands, tenements, or hereditaments, ſhall at any time be aſſigned, granted, or ſurrendered, unleſs it be by deed or note in writing, ſigned by the party ſo aſſigning, granting, or ſurrendering the ſame, or their agents thereunto lawfully authorized by writing, or by act and operation of law.

No actions to be maintained upon any contract, unleſs.

SECT. 2. *And be it further enacted,* That no action ſhall hereafter be maintained upon any contract or ſale of lands, tenements, or hereditaments, or any intereſt in or concerning the ſame, unleſs the agreement upon which ſuch action ſhall be brought, or ſome memorandum or note thereof ſhall be in writing, and ſigned by the party to be charged therewith, or ſome other perſon thereunto by him lawfully authorized.

All grants, &c. of lands, to be manifeſted and proved by writing. Appendix, ch. 4, ſect. 1, Prov. law; and ſect. 3, 4. Proviſo.

SECT. 3. *And be it further enacted,* That all grants and aſſignments, as well as all declarations or creations of truſts or confidences of any lands, tenements, or hereditaments, ſhall be manifeſted and proved by ſome writing ſigned by the party, who is by law enabled to grant, aſſign, or to declare ſuch truſt, or by his laſt will in writing, or elſe the ſame ſhall be utterly void and of no effect. *Provided always,* That where any conveyance ſhall be made of any lands, tenements, or hereditaments, by which a truſt or confidence ſhall or may ariſe or reſult, by the implication or conſtruction of law, or be tranſferred or extinguiſhed by an act or operation of law; then, and in every ſuch caſe, ſuch truſt or confidence ſhall be of the like force and effect, as the ſame would have been if this Act had not been made; any thing herein contained to the contrary notwithſtanding.

Deeds executed by ſigning, ſealing, &c. to be valid. Appendix, ch. 14, ſect. 1, Prov. law.

SECT. 4. *And be it further enacted by the authority aforeſaid,* That all deeds or other conveyances of any lands, tenements or hereditaments, lying within this Commonwealth, ſigned and ſealed by the party or parties granting the ſame, having good and lawful right or authority thereunto, and acknowledged by ſuch grantor or grantors, before a Juſtice of the Peace in this State, or before a Juſtice of the Peace or magiſtrate in ſome other

other of the United States of *America*, (or in any other State or kingdom wherein the grantor or vendor may reſide at the time of making and executing the deed) and recorded at length in the regiſtry of deeds in the county where ſuch lands, tenements, or hereditaments do lie, ſhall be valid to paſs the ſame without any other act or ceremony in the law whatſoever. And no bargain, ſale, mortgage or other conveyance in fee ſimple, fee tale, or for term of life, or any leaſe for more than ſeven years from the making thereof, of any lands, tenements, or hereditaments, within this Commonwealth, ſhall be good and effectual in law to hold ſuch lands, tenements or hereditaments, againſt any other perſon or perſons but the grantor or grantors, and their heirs only, unleſs the deed or deeds thereof be acknowledged and recorded in manner aforeſaid. *Provided nevertheleſs*, That when any grantor or leſſor as aforeſaid ſhall go beyond ſea, or be removed out of this government, or be dead, before the deed or conveyance by him executed, ſhall be acknowledged as aforeſaid, in every ſuch caſe the proof of ſuch deed or conveyance, made by the oath of one or more of the witneſſes whoſe names may be thereunto ſubſcribed, before any court of record within this Commonwealth, ſhall be equivalent to the party's own acknowledgment thereof before a Juſtice of the Peace as aforeſaid.

Proviſo.

Addit. Act, June 28, 1787.

SECT. 5. *And be it further enacted*, That if any grantor or leſſor of any lands, tenements or hereditaments, ſhall refuſe to acknowledge any bargain, ſale, mortgage or other conveyance as aforeſaid, it ſhall be lawful for ſuch grantee or leſſee to leave a copy of ſuch deed or leaſe, compared with the original by the Regiſter, in the Regiſter's office, and ſuch copy ſo left ſhall be deemed ſufficient caution to all perſons againſt purchaſing or extending execution thereon for the ſpace of forty days from the time of leaving ſuch copy. And any Juſtice of the Peace in the ſame county, after ſuch refuſal, at the requeſt of the grantee or leſſee, his heirs, executors, adminiſtrators or aſſigns, may iſſue a ſummons for ſuch grantor or leſſor to appear (if he ſee cauſe) at a certain time and place therein mentioned, to hear the teſtimony of the ſubſcribing witneſſes thereunto; which ſummons ſhall be ſerved by the proper officer, ſeven days at the leaſt before the time therein aſſigned for proving the deed; and at ſuch time and place, whether the grantor or leſſor be preſent or not, it being made to appear by the oath of one or more of the witneſſes thereunto ſubſcribed, that they ſaw the ſaid grantor (or leſſor) voluntarily ſign and ſeal the deed, and that they ſubſcribed their names as witneſſes thereunto at the ſame time, ſuch proceedings, and a certificate thereof under the hand of the Juſtice annexed to the deed (wherein the preſence or abſence of the adverſe party ſhall be noted) ſhall be equivalent to the acknowledgment of the grantor before a Juſtice of the Peace.

Grantors refuſing to acknowledge their deeds.

Juſtices of the Peace to iſſue a ſummons.

Provided,

Proviſo.

Provided, That nothing in this Act ſhall be conſtrued, deemed or extended, to bar any widow of any vender or mortgagee of lands or tenements from her dower or right in or to ſuch lands or tenements, who did not join with her huſband in ſuch ſale or mortgage, or otherwiſe lawfully bar or exclude herſelf from ſuch dower or right.

How mortgages ſhall be diſcharged. Appendix, ch. 14, ſect. 3, Prov. law.

SECT. 6. *And be it further enacted*, That any mortgagee of any lands, tenements or hereditaments, his or her heirs, executors or adminiſtrators, having received full ſatisfaction and payment of all ſuch ſum and ſums of money as are really due to him by ſuch mortgage, ſhall, at the requeſt of the mortgagor, his heirs, executors or adminiſtrators, acknowledge and cauſe ſuch ſatisfaction and payment to be entered in the margin of the record of ſuch mortgage, in the Regiſter's office, and ſhall ſign the ſame, which ſhall forever after diſcharge, defeat and releaſe ſuch mortgage, and perpetually bar all actions to be brought thereupon in any court of record. And if ſuch mortgagee, his heirs, executors or adminiſtrators, ſhall not, within ten days next after requeſt in that behalf made, and tender of his reaſonable charges, ſign and ſeal a diſcharge of the ſaid mortgage, and releaſe and quit claim to the eſtate therein mentioned to be granted, and acknowledge the ſame before a Juſtice of Peace, or repair to the Regiſter's office, and there make and ſign ſuch diſcharge and acknowledgment as aforeſaid, ſhall be liable to make good all damages for want of ſuch diſcharge or releaſe, to be recovered by a ſpecial action of the caſe, in any court of record, together with treble coſts of ſuit.

Former deeds valid.

SECT. 7. *And be it further enacted*, That all deeds of bargain, ſale, mortgage, or other conveyance of real eſtate heretofore made and executed according to former laws and uſage, ſhall be valid and effectual.

[This Act paſſed *March* 10, 1784.]

Mar. 1, 1790, Act for diſmiſſing guardians.

An ACT empowering the Judges of Probate to appoint Guardians to Minors and others.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the Judge of Probate in each county reſpectively, when and ſo often as there ſhall be occaſion, be, and hereby is empowered, to allow of guardians that ſhall be choſen by minors of fourteen years of age, and to appoint guardians for ſuch as ſhall be within or under that age, taking ſufficient ſecurity of all ſuch guardians for the faithful diſcharge of their truſt, and to account either with the Judge or minor when ſuch minor ſhall arrive to the age of twenty-one years, or at ſuch other time as the Judge, upon complaint to him made, ſhall direct.

Guardians to be allowed by the Judge of Probate.

rect. And when any minor above the age of fourteen years shall be cited by the Judge of Probate to choose a guardian, and such minor shall refuse or neglect to appear, or when appearing shall refuse to choose a guardian, or any guardian chosen by such minor shall be unable to give sufficient security, or shall refuse the trust, or when any minor above the age of fourteen years shall be without this government, in every such case the Judge of Probate shall have the same power to appoint a guardian as though such minor were under the age of fourteen years.

Proviso.

SECT. 2. *Provided nevertheless*, That when a minor above the age of fourteen years, living more than ten miles distant from the Judge of Probate's dwelling-house, shall choose a guardian, such minor may have that choice certified to the Judge by any Justice of the Peace in the same county, or by the Town-Clerk, if no Justice shall dwell in such town, which choice so certified shall be deemed as good and valid as if done in the said Judge's presence.

Judges empowered, upon request made by the friends of any idiot, &c. to direct the Selectmen to make inquisition.

SECT. 3. *And be it further enacted*, That it shall be in the power of the Judges for the Probate of wills, within their respective counties, from time to time, (upon request made by the friends or relations of any idiot, *non-compos*, or lunatic person, or by the Overseers of the Poor in such town where such idiot, *non-compos*, or lunatic person lives or is an inhabitant) to direct the Selectmen of such town to make inquisition thereinto; and if the person said to be an idiot, lunatic, or distracted person, shall be adjudged by the Selectmen of the town (or the major part of them) where such person resides, to be incapable to take care of him or herself, and they shall certify the same under their hands, to the Judge, the said Judge of Probate shall be empowered to assign some suitable person or persons to be guardian or guardians to such idiot, lunatic, *non-compos*, or distracted person, directing and empowering such guardian or guardians to take care of the person and estate, both real and personal, of such person, and to make a true and perfect inventory of the said estate, to be returned into and filed in the Probate office in such county.

To be certified to the Judges.

Judges of Probate authorized, upon complaint of any heirs, &c.

SECT. 4. *And be it further enacted*, That the Judges of Probate in their respective counties, are also fully authorized and empowered, upon the complaint of any heir, creditor or other person, having lawful right or claims in expectancy, to the estate of any idiot, lunatic, *non-compos*, or distracted person, as well as the guardian or guardians, to proceed with any person or persons suspected of concealing, embezzling or conveying away any of the money, goods or chattels of such idiot, lunatic, *non-compos*, or distracted person, in the same way and manner as is by law prescribed for persons suspected of concealing, embezzling, or conveying away the money, goods or effects of deceased persons.

SECT.

Guardians to improve the eſtate of the idiot, &c. and to ſettle accounts.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the guardian or guardians appointed as aforeſaid, ſhall improve frugally and without waſte and deſtruction, the eſtate of the idiot, *non-compos*, lunatic or diſtracted perſon, and apply the annual income and profits thereof for the comfortable maintenance and ſupport of the ſaid idiot, lunatic, *non-compos* or diſtracted perſon, and alſo of his or her houſehold or family, (if any ſuch there be) and the ſaid guardian or guardians are hereby empowered to ſettle accounts, receive, (and if need be) to ſue for and recover all juſt debts due to the ſaid idiot, lunatic, *non-compos*, or diſtracted perſon, from any perſon or perſons, whomſoever, and to manage, improve, or divide the real eſtate in as full and ample a manner as the ſaid idiot, lunatic, *non-compos*, or diſtracted perſon might or could, were they reſtored to the full uſe of their rational faculties; and ſhall alſo be ſubject to the payment of all juſt debts owing by ſuch perſon which were contracted before their diſtraction, out of their perſonal eſtate, or in caſe that be inſufficient, then out of the real eſtate, being firſt empowered to make ſale thereof by the Supreme Judicial Court, in the way and manner executors or adminiſtrators are empowered to make ſale of the real eſtates of deceaſed perſons. And in caſe the income or improvement of the perſonal and real eſtate of ſuch perſons ſhall not be ſufficient to ſupport them, the ſaid Supreme Judicial Court may licenſe and authorize the guardians to make ſale of the whole or part of the real eſtate of ſuch perſon for that purpoſe, as occaſion may require. And in caſe any ſuch idiot, lunatic, or diſtracted perſon ſhall be reſtored to the uſe of his reaſon, the reſidue and remainder of the eſtate real and perſonal ſhall be returned and delivered to him, or in caſe of his death to his heirs, executors, or adminiſtrators; the guardian or guardians having firſt ſuch a reaſonable allowance out of the ſame for their charge and trouble as the Judge of Probate ſhall order.

In caſe.

Guardians to give bond.

SECT. 6. *And be it further enacted*, That the guardian or guardians appointed as aforeſaid, ſhall give bond to the Judge of Probate for the time being in a reaſonable ſum, with ſufficient ſureties for the faithful diſcharge of the truſt repoſed in them, and more eſpecially for the rendering a juſt and true account of their guardianſhip, when and ſo often as they ſhall be thereunto required.

Judges of Probate to appoint guardians for the children of lunatics, &c.

SECT. 7. *And be it further enacted*, That the Judges of Probate in their reſpective counties may alſo, as occaſion may require, appoint guardians for the children of lunatics, idiots, *non-compos*, or diſtracted perſons, in the ſame way and manner as though their parents were naturally dead.

And whereas, to the diſhonour of human nature and the great injury of ſociety, individuals oftentimes ſpend, leſſen and waſte their eſtates by exceſſive drinking, gaming, idleneſs and debauchery,

ery, and thereby involve themſelves and families in diſtreſs, miſery and ruin; and ſubject the towns to which they belong to expenſe and charge for their maintenance and ſupport:

SECT. 8. *Be it therefore enacted, by the authority aforeſaid*, That when any perſon by exceſſive drinking, gaming, idleneſs or debauchery of any kind, ſhall ſo ſpend, waſte, or leſſen his or her eſtate, as thereby to expoſe himſelf or herſelf, or his or her family, or any of them, to want or ſuffering circumſtances, or ſhall by thus ſpending, waſting, or leſſening his or her eſtate, endanger or expoſe the town to which he or ſhe belongs, in the judgment of the Selectmen thereof, to a charge or expenſe for the maintenance or ſupport of him or her, or his or her family, or any of them, ſuch Selectmen, or the major part of them, ſhall, in ſuch caſe, lodge a complaint with the Judge of Probate for the county to which the perſon ſpending, waſting or leſſening his eſtate as aforeſaid, doth belong; and if it ſhall appear to the ſaid Judge of Probate, that the perſon complained of comes within the deſcription of this Act, and has had due notice of the complaint exhibited againſt him or her, as the caſe may be, then, and in that caſe, the ſaid Judge of Probate ſhall appoint the ſaid Selectmen, or the major part of them, or ſome ſuitable and diſcreet perſon or perſons, guardian or guardians to ſuch perſon. And no ſale or bargain of any real or perſonal eſtate, made by ſuch perſon or perſons, after the appointment of guardianſhip, as aforeſaid, ſhall be held valid in law. And the guardian or guardians that may be thus appointed, ſhall, in diſcharging the duties of their appointment, purſue the ſame method, and be under ſimilar obligations for a faithful diſcharge of their truſt, as guardians appointed for idiots, lunatics, or for perſons *non-compos-mentis*.

Selectmen to make complaint to the Judge of Probate, in caſe perſons, by exceſſive drinking, &c. endanger the towns to which they belong, to charge.

SECT. 9. *And be it further enacted*, That executors, adminiſtrators, and guardians ſhall not be compelled to plead ſpecially to any action or ſuit at law, brought againſt them in their ſaid capacity; but may under the general iſſue give any ſpecial matter in evidence.

Executors, &c. not compelled to plead ſpecially.

SECT. 10. *And be it further enacted*, That the Judges of Probate in the reſpective counties of this State, ſhall have certain fixed days for the making and publiſhing their orders and decrees, and ſuch days to be made known by public notifications thereof in the ſeveral counties. And no Judge of Probate ſhall be allowed or admitted to have a voice in judging and determining (nor ſhall he be admitted to plead or act as an attorney) in any civil action whatſoever, which may depend on or have relation to any ſentence or decree made or paſſed by him in his office aforeſaid.

Judges of Probate to fix certain days for making and publiſhing their orders and decrees.

[This Act paſſed *March* 10, 1784.]

An

Act March 9, 1791, how they may act after a diviſion is made.

An ACT for the better managing Lands, Wharves, and other Real Eſtate, lying in common.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That when and ſo often as any five or a major part of the proprietors of lands, wharves, or other real eſtate lying in common in any part of this Commonwealth, ſhall judge a proprietors' meeting to be neceſſary, they may make a written application to a Juſtice of the Peace through the Commonwealth, or to a Juſtice of the Peace within the county where ſuch eſtate lies, for a warrant for the calling of a meeting, expreſſing the time, place and occaſion thereof; and ſuch Juſtice is hereby empowered to grant a warrant for ſuch meeting accordingly, directed to one of the proprietors aſking the ſame, or to the proprietors' clerk, requiring him to notify the proprietors of the meeting, and the time, place, and occaſion of the ſame; which notification, in caſe ſuch undivided eſtate lies in any incorporated town, ſhall be given in writing and poſted up in ſome public place or places within ſuch town, fourteen days at leaſt before the day appointed for the meeting, and for the like time (at leaſt) before ſuch meeting, ſhall be advertized in one of the *Boſton* weekly news-papers, and in one of the news-papers (if ſuch there be) printed in the county wherein ſuch real eſtate lies: or in caſe ſuch undivided eſtate doth not, or ſhall not lie within any incorporated town, ſuch written notification ſhall be given by advertizing the ſame in any two of the ſaid *Boſton* news-papers, and in one other news-paper, (if ſuch there be) printed out of *Boſton* in the county where ſuch eſtate lies, at leaſt four weeks ſucceſſively before ſuch meeting; or ſuch meetings may be otherwiſe warned by poſting up written notifications in ſome public place in each and every town and plantation where any one or more of the ſaid proprietors may reſide, fourteen days at leaſt before the time appointed for holding ſuch meeting; and ſuch and ſo many of the proprietors as ſhall aſſemble perſonally, or by their attornies, and meet accordingly, ſhall have power by a major vote to chooſe a moderator, a clerk, a treaſurer, a collector or collectors of taxes, a committee or committees, and any other needful officers to manage their affairs; which clerk ſhall enter and record all votes and orders that from time to time ſhall be made and paſſed in the proprietors' meetings, who ſhall be ſworn to the faithful diſcharge of his office; and to agree upon and appoint any other way or method of calling and ſummoning meetings for the future, that ſhall be moſt ſuitable and convenient to the proprietors; as alſo to paſs votes or orders for the ſettling, or encouraging the ſettling, managing, improving, or dividing ſuch common lands, wharves, or other real eſtate, not before ſevered and divided; and to annex penalties to the breach and non-obſervance of ſuch orders;

How meetings are to be called.

Appendix, ch. 31, ſect. 1, ch. 45, ſect. 1, ch. 61, ſect. 1, Prov. law.

Fourteen days notice for a meeting.

To chooſe a moderator, &c.

Provided,

Provided, such penalty doth not exceed *Fifteen Shillings* for one offence: *Provided also*, That such orders so made, with penalties annexed to them, be allowed and approved by the Court of General Sessions of the Peace for the county where such land or estate lies, and be not repugnant to the general laws of this Commonwealth; in which case such orders shall have such force and effect as that such proprietors, by their treasurer, agent or agents, may recover the penalty thereto annexed against the breakers or non-observers thereof in any court proper to try the same; such penalty to be disposed of as the proprietors shall direct: And the votes shall always be collected and numbered according to the interest of the proprietors present, where the same is known. And no other affair shall be acted on at any meeting of the proprietors, than what is expressed in the warrant or notification for such meeting. Proviso.

SECT. 2. *And be it further enacted by the authority aforesaid*, That the moderator chosen at any such meeting shall be thereby empowered to manage and regulate the business of that meeting: And where it shall so happen that any matter remains doubtful after a vote, the moderator is hereby directed and required to cause the same to be decided by the poll, if any one or more desire it; such polls to be numbered according to their interest. Moderator empowered.

SECT. 3. *And be it further enacted by the authority aforesaid*, That no person shall have right to speak before leave first obtained from the moderator, nor when any other is orderly speaking, and that all persons be silent at the order of the moderator, under the penalty and forfeiture of *Five Shillings*, for the breach of every such order; and if any person being by the moderator notified of such offence shall still persist in the same, then the moderator may order such person to withdraw from the said meeting; and such offender upon his refusal to do so shall forfeit and pay the sum of *Twenty Shillings*: The respective forfeitures to be recovered by the clerk of such proprietors, before any one of the Justices of the Peace for the county wherein such land or other estate lies, or such clerk lives, to be disposed of, the one half for the use of the propriety, the other half to the said clerk. And for the better enabling such proprietors, and all persons, towns, villages, trustees for schools and others (holding or claiming by any lawful title) to maintain, recover and defend their respective grants, lands, interests and estates: No persons to speak without leave. Penalty. How recoverable.

SECT. 4. *Be it enacted by the authority aforesaid*, That it shall and may be lawful for all and every the said persons, towns, villages, precincts, parishes, trustees for schools, and proprietors in common and undivided lands, grants and other real estates or interests whatsoever, to sue, commence and prosecute any suits or actions in any court proper to try the same, either by themselves or their agents or attornies, and in like manner Persons, towns &c. to sue or defend in any court.

manner to defend all such suits and actions as shall be commenced against them or any of them; and at a legal meeting to choose such agents or attornies to prosecute for, or defend them—such choice being certified by the clerk of such town, village, precincts, parishes, trustees or proprietors, or by such other person as they shall respectively appoint.

Proprietors of common lands empowered to raise money. Appendix, ch. 61, sect. 2, Prov. law.

SECT. 5. *Be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for the proprietors of any common and undivided lands or other real estate, or the major part of them according to the interest of the proprietors present, by themselves or their lawful attornies, at any legal meeting, to vote, grant or order the raising of any suitable sum or sums of money that shall by them be thought sufficient for bringing forward, completing the settlement of, or managing or improving such lands and estate; and to carry on and prosecute or defend any actions or suits that may be brought by or against them, or for carrying on, managing, or effecting any other affair for the common good of such proprietors; and to levy and apportion such sum or sums (raised for the ends and uses aforesaid) upon the proprietors' several rights in such common and undivided lands or estates, equally and rateably according to their several interests therein. And every proprietor who shall neglect to pay to the collector, or treasurer, or committee of such propriety, his proportion of such sum or sums of money as have been, or from time to time shall be duly granted and voted to be raised and levied upon the proprietors' rights and shares in such lands and estate, for the space of six months with respect to those who live within this Commonwealth, and twelve months with respect to those who live out of it, after such grant, and his or their proportion thereof shall have been posted and published in the several news-papers as in the case of notifications as aforesaid; then the committee of the proprietors, or the major part of such committee, may, and are hereby fully empowered from time to time, at a public vendue, to sell and convey away so much of such delinquent proprietors' right or share in such common land or estate as will be sufficient to pay and satisfy his tax or proportion of such grant, and all reasonable charges attending such sale, to any person that will give most for the same; notice of such sale and of the time and place thereof being given by posting as aforesaid, and publishing the same in at least two of the news-papers aforesaid, five weeks successively before the time of such sale; and may execute a good deed or deeds of conveyance of the lands or estate so sold unto the purchaser thereof to hold in fee simple. *Provided nevertheless*, That the proprietor or proprietors whose right or share shall be so sold, shall have liberty to redeem the same at any time within twelve months after such sale, by paying the sum such right or share sold for and charges, together

Proprietors neglecting to pay.

Committee of the proprietors empowered in this case.

Proviso.

together with the further ſum of *Twelve Pounds* for each *Hundred Pounds* produced by ſuch ſale, and ſo *pro rata* for any leſs or greater ſum.

Writs to be ſerved on towns, proprietors, &c. thirty days before the court.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That when it ſhall happen that ſuit ſhall be brought againſt any towns, precincts, pariſhes or villages, or againſt the proprietors of any common or undivided lands or other eſtate, the plaintiff bringing forward ſuch ſuit, ſhall cauſe the clerk of ſuch towns, villages, precincts or proprietors, or one or more of the principal inhabitants or proprietors reſpectively, to be ſerved with a copy of the writ or ſummons, at leaſt thirty days before the day of the ſitting of the court to which the ſame ſhall be returnable.

Treaſurer, aſſeſſors, &c. to be ſworn.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That the treaſurer, aſſeſſors, collector or collectors, which at any time may be choſen by the proprietors of any common and undivided lands or other real eſtate, ſhall be ſworn before a Juſtice of the Peace to the faithful diſcharge of their reſpective truſts; and in caſe no Juſtice of the Peace ſhall be preſent at the meeting of ſuch proprietors, then any, or all the officers directed to be ſworn by this Act, may be ſworn by the moderator; and ſuch treaſurer is hereby empowered to demand, ſue for, recover and receive all ſuch ſums of money, debts and dues, as ſhall at any time belong to the ſaid proprietors, or be any ways due or coming to them, and make payment thereof according as he ſhall be lawfully ordered and directed by the proprietors, and render his reaſonable account thereof on demand; and ſuch treaſurer ſhall continue in his office till the proprietors ſhall ſee cauſe to chooſe another.

Treaſurer empowered to ſue for and recover money.

Proprietors empowered to order, manage, &c. each one's proportion of land.

Appendix, ch. 61. ch. 3. ſect. 4.

Proprietors may vote by an attorney, as in perſon.

Lands and eſtate not ſtated, how to be improved.

Proviſo.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That the proprietors of ſuch undivided land or eſtate where the ſame hath been heretofore ſtated, and each one's proportion known, ſhall be, and hereby are empowered to order, manage, improve, divide, or diſpoſe of the ſame in ſuch way and manner as ſhall be concluded and agreed upon by the major part of the intereſted preſent at any legal meeting, the votes to be collected and accounted according to the intereſts. And any proprietor may vote as well by attorney, ſpecially appointed for that purpoſe, as in perſon: And the proprietors of all ſuch undivided lands and eſtate not ſtated, nor the proportions known as aforeſaid, ſhall be, and hereby are empowered to order, manage, improve, divide or diſpoſe of the ſame, as hath been or ſhall be concluded and agreed on by the major part in number of ſuch proprietors preſent at any ſuch meeting. *Provided always*, That the meetings of proprietors that may be notified, or which may hereafter be held by adjournment or adjournments agreeable to former laws, ſhall not be affected by the paſſing this Act: But ſuch meetings, and the tranſactions regularly made thereat, ſhall be as valid to every intent and purpoſe as though this Act had never been made.

And

Preamble.

And whereas it is needful that provision be made for the preservation and safe keeping of the records of such proprietors, after they have made a full and complete division of their lands, or other real estate lying in common and undivided, and reduced the same to severalty:

The last clerk to continue to execute the office to which he was elected, the final division of lands and estate notwithstanding.

SECT. 9. *Be it further enacted by the authority aforesaid*, That the last clerk chosen by the proprietors of any common and undivided land, or other real estate in this Commonwealth, who are or have been, or may hereafter be empowered by law to hold meetings, choose a clerk and other officers, shall continue to execute the office of clerk to which he was appointed, notwithstanding the final and total division of such lands and estate, as fully, to all intents, constructions and purposes whatsoever, as though there had been no such division made, and until the same records shall be lodged with the clerk of the town in which the land lies; and when the lands lie in several towns, they may be lodged with the clerk of such town, as the Court of Sessions, upon application to them made for that purpose, shall order and direct; and the clerk with whom they may be lodged, and his successors in office, shall be fully authorized to authenticate any copies therefrom, as from the records of the town of which he is clerk.

[This Act passed *March* 10, 1784.]

An ACT for the speedy Assignment of Dower, and for the preventing of Strip and Waste by Tenants therein.

Heir, &c. to render dower within one month next after demand. Dower defined. Appendix, chap. 1.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That when the heir or other person having the next immediate estate of freehold or inheritance, shall not within one month next after demand made, assign and set out to the widow of the deceased, her dower or just third part of and in all lands, tenements, and hereditaments, whereof by law she is or may be dowable, to her satisfaction, according to the true intendment of law, then such widow may sue for and recover the same by writ of dower, to be brought against the tenant in possession, or such persons who have or claim right or inheritance in the same estate, in manner and form as the law prescribes.

Dower to be set forth by three disinterested freeholders, upon oath.

SECT. 2. *And be it further enacted*, That upon rendering judgment for any woman to recover her dower in any lands, tenements, or hereditaments, reasonable damage shall also be awarded to her from the time of the demand and refusal to assign to her her reasonable dower. And a writ of seisin shall be directed to the sheriff of the county, his under-sheriff or deputy, in manner and form as is by law prescribed; and the sheriff or other

other perſon unto whom by law ſuch writ of ſeiſin is directed, ſhall cauſe her dower in ſuch eſtate to be ſet forth unto her by three diſintereſted freeholders of the ſame county, under oath, (to be adminiſtered by any Juſtice of the Peace) to ſet forth the ſame equally and impartially without favour or affection, as conveniently as may be.

Eſtates where no diviſion can be made, dower to be aſſigned as of one third part of the rents, iſſues or profits.

SECT. 3. *And be it further enacted*, That of eſtates of which a woman is dowable and that be entire, and where no diviſion can be made by meets and bounds, dower ſhall be aſſigned thereof in a ſpecial manner, as of a third part of the rents, iſſues, or profits, to be computed and aſcertained in manner as aforeſaid; and no woman that ſhall be endowed of any lands, tenements, or hereditaments as aforeſaid, ſhall commit or ſuffer any ſtrip or waſte thereon, upon penalty of forfeiting the part of the eſtate upon which ſuch ſtrip or waſte ſhall be made, and the damages aſſeſſed for waſte, to him or them that have the immediate eſtate of freehold or inheritance, in remainder or reverſion, by an action of waſte to be brought therefor. And all tenants in dower ſhall maintain the houſes and tenements with the fences and appurtenances, whereof they may be endowed, in good repair during the term, and ſhall leave the ſame ſo at the expiration thereof. And the writs of dower and ſeiſin, ſhall be in form following:

No ſtrip or waſte to be made.

(Seal.) COMMONWEALTH OF MASSACHUSETTS.

——— ſſ.

To the Sheriff of our county of S——, *or his Deputy.*

GREETING. Writ of dower.

WE command you, that you ſummon of in our ſaid county of *S* , if may be found in your precinct, to appear before our Juſtices of our Court of Common Pleas next to be holden at within and for our ſaid county of *S* , upon the Tueſday in next; then and there in our ſaid Court to anſwer unto of in a plea of dower, for that

[*Here the declaration.*]

to the damage of the ſaid as ſaith, the ſum of *Pounds*, as ſhall then and there appear. Witneſs *T— N—*, Eſq; at *B* , the day of in the year of our LORD, *L. M.* Clerk.

[*Writ of ſeiſin.*]

(Seal.) COMMONWEALTH OF MASSACHUSETTS.

S——— ſſ.

To the Sheriff of our ſaid county of S——, *or his Deputy.* Writ of ſeiſin.

GREETING.

WHEREAS who was the wife of *E. D.* late of *B* in the county aforeſaid (addition) deceaſed, before our Juſtices of our Court of holden at

B for our county aforesaid, on the day of now last past, did recover seisin against *A. B.* of *B* aforesaid, (addition) of one third part of a certain messuage or tenement, with the appurtenances, situate in *B* aforesaid, in the possession of the said *A. B.* (addition) as her dower of the endowment of the said *E. D.* her certain husband, by our writ of dower, whereof she hath nothing; therefore we command you, that to the said full seisin of one third part of the aforesaid messuage or tenement with the appurtenances, you cause to be had without delay, to hold to in severalty by meets and bounds. We command you also, that of the goods or chattels of the said *A. B.* within your precinct, you cause to be paid and satisfied unto the said at the value thereof in money, the sum of for damages awarded her by our said Court, for her being held and kept out of her dower aforesaid, and costs expended on this suit, with *shillings* more for this writ; and thereof also to satisfy yourself your own fees; and for want of goods or chattels of the said *A. B.* to be by him shewn unto or found within your precinct to satisfy the same, we command you to take his body, and to commit him to the keeper of our goal in *B* in our county aforesaid, within the said prison, whom we likewise command to receive the said *A. B.* and him safely to keep until he pay unto the said the full sum abovementioned, and also satisfy your fees.

Hereof fail not, and make return of this writ, and how you shall have executed the same, to our next Court of to be holden at *B* for our said county of *S* on the day of next. Witness, *E. H.* Esq; at *B.* the day of in the year of our LORD,

Clerk.

[This Act passed *March* 11; 1784.]

Feb. 14, 1787, Act as to evidence, judgment, appeal, &c.

An ACT for the more easy Partition of Lands, or other Real Estate.

Preamble.

WHEREAS the partition of lands and other real estate among the persons interested, though much desired and of great advantage, is often hindered and delayed by reason that infants are interested, or that the parties concerned are numerous and live remote from each other, and sometimes in parts beyond seas, and are some of them unknown:

Appendix, ch. 66, sect. 3, 4, 5. chap. 38, sect. 1. ch. 66, sect. 1, 2, Prov. law.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That any person or persons interested with others in any lot, tract of land, or other real estate, making application (either by themselves or their agents, attornies or guardians) to the

the Supreme Judicial Court of this Commonwealth, or Court of Common Pleas, of the county in which such land or other real estate lies; the said courts are severally authorized and empowered to cause partition to be made of such lands or other real estate, and the share or shares of the party or parties applying for the same, to be set off and divided from the rest. The partition to be made by five or three freeholders, under oaths, to be appointed by the said court who shall order the partition, and a return of such partition to be made into the clerk's office of the said court; and the partition or division so made being accepted by the said court which ordered the division to be made, and there recorded, and also recorded in the registry of deeds, in the county where such estate lies, shall be valid and effectual to all intents and purposes.

Supreme Judicial Court, or Court of Common Pleas, severally authorized to appoint five or three disinterested freeholders to make partition of real estates.

SECT. 2. *And be it further enacted by the authority aforesaid*, That when partition shall be made as aforesaid, if any one or more of the interested parties applying, shall neglect or refuse to pay their just proportion of the charges which may attend such division, it shall and may be lawful for the said court who ordered the partition, to issue an execution against the delinquent or delinquents interested, and applying as aforesaid; provided an account of such charge be first laid before the said court who ordered the partition, and the just proportions of the persons interested, settled and allowed, they having been duly notified to be present at such settlement and allowance. And when any messuage, tract of land, or other real estate shall be of greater value than either party's purpart or share in the estate to be divided, and cannot at the same time be subdivided, and part thereof assigned to one, and part to another, without great inconvenience, the same may be settled or assigned to one of the parties, such party to whom the same shall be so assigned, paying such sum or sums of money to such party or parties as by means thereof have less than their share of the real estate, as the committee appointed to make partition shall award.

Executions to issue on persons refusing to pay charges on the division of estates.

SECT. 3. *And be it further enacted*, That neither of the said courts shall proceed to order such partition, until it shall appear to them respectively, that the several persons interested in such estate, and living within the State, or the attornies of such as are absent, and have attornies residing in the State, have been duly notified of such petition (by being personally served with a copy thereof, or a copy left at their dwelling house, or last place of abode, or that the substance of the petition shall have been inserted three weeks successively, in one or more of the public news-papers) and have had opportunity to make their exception to the granting the same.

Said courts to notify persons concerned, before estates be divided.

Provided nevertheless, That before partition be made, where any infants, persons *non-compos-mentis*, or otherways incapacitated to take care of their estates are interested, guardians shall be

Proviso.

appointed for all such persons according to law, if they live within this State, and if any person or persons interested in any such estate happen (at the time when such application shall be made) to have been beyond sea, or out of this State for the space of one year, and not returned, and having no sufficient attorney within the same, in such case the said court to whom application shall be made for partition, shall appoint some discreet and disinterested person or persons, as agent or agents for such absent party or parties, to be advising on his or their behalf in making such partition; and due notice shall be given by the committee to all concerned (that are known and within the State) before such partition be made, that so they may be present (if they see meet) at the time of making the same. *Provided also*, That no partition be made where any partner shall be beyond sea, and shall not have been absent twelve months, and shall be expected to return within six months.

Further proviso.

Provided also, That if any partner shall have a larger share set off than is such partner's true and real interest, or if any share set off should be more than equal in value to the proportion it was set off for, then and in every such case, upon complaint (to the court which caused such partition to be made) within three years of the making thereof, by any aggrieved partner or partners, who at the time of making such partition were out of the State, and not notified thereof as aforesaid seasonably to be present at the same, the said court shall cause partition thereof to be made anew. And in such new partition so much and no more shall be taken off from any share, as such share shall be adjudged, more than the proportion of the whole it was designed for, estimating such lands or real estate as in the state they were in when first divided; and in case any improvements shall be made on the part that may by such new partition be taken off as aforesaid, the partner who made such improvements shall have reasonable satisfaction made him by the partner or partners to whose share the same shall be added, by the estimation of the freeholders employed in making such new partition, or the major part of them. And the Justices of the same court who ordered partition, are also empowered to issue execution for such satisfaction, and for costs in such new partition, the same being first taxed and allowed in the said court.

[This Act passed *March* 11, 1784.]

Explanatory Act, June 22, 1797.

An ACT describing the Power of Justices of the Peace in civil Actions.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That all manner of debts, trespasses, and other

er matters not exceeding the value of *Four Pounds*, (and wherein the title of real eſtate is not in queſtion) ſhall, and may be heard, tried, adjudged, and determined by any Juſtice of the Peace within his county, and the Juſtices are ſeverally empowered to grant ſummons, capias and attachment, at the requeſt of any perſon applying for the ſame, directed to ſome proper officer within the ſame county, empowered by law to execute the ſame. And ſuch ſummons or capias and attachment ſhall be duly ſerved by ſuch officer, ſeven days at the leaſt before the day therein ſet for trial, otherwiſe the party ſued ſhall not be held to anſwer thereon; and if after ſuch proceſs ſhall be duly ſerved, the party ſued, after being duly called, ſhall not appear to anſwer to the ſame ſuit, the charge againſt him in the declaration ſhall be taken to be true, and the Juſtice ſhall give judgment againſt him for ſuch damages as he ſhall find the plaintiff to have ſuſtained, with coſts; and if the perſon ſued ſhall appear to defend the ſuit or oppoſe the ſame, the Juſtice ſhall award ſuch damages as he ſhall find the plaintiff to have ſuſtained, *Provided*, that no more damages than the ſum of *Eighty Shillings* ſhall be awarded in any action originally brought or tried before a Juſtice of the Peace; but if the plaintiff ſhall not ſupport his action, ſhall fail to proſecute or become non-ſuit, the Juſtice ſhall award to the party ſued, his reaſonable coſts, taxed as the law directs. And upon all judgments given by a Juſtice of the Peace in civil actions, he ſhall award execution thereon in form by law preſcribed.

Debts, treſpaſſes and other matters, not exceeding *Four Pounds*, to be tried by Juſtices of the Peace.

Juſtices empowered to grant ſummons, &c.

Summons, &c. to be ſerved ſeven days before trial.

In caſe of non-appearance, Juſtices to give judgment.

Proviſo.

SECT. 2. *And be it further enacted*, That when an action of treſpaſs ſhall be brought before any Juſtice of the Peace, and the defendant ſhall plead the general iſſue, he ſhall not be allowed to offer any evidence that may bring the title of real eſtate in queſtion. And when the defendant in any ſuch action ſhall plead the title of himſelf or any other perſon in juſtification, the Juſtice, upon having ſuch plea filed, ſhall order the defendant to recognize to the adverſe party, in a reaſonable ſum, with ſufficient ſurety or ſureties, to enter the ſaid action at the next Court of Common Pleas to be holden within the ſame county, and to proſecute the ſame in the ſame manner as upon an appeal from a Juſtice's judgment; and if ſuch pleader ſhall refuſe ſo to recognize, the Juſtice ſhall render judgment againſt him in the ſame manner as if he had refuſed to make anſwer to the ſame ſuit. And either party in ſuch cauſe ſhall be allowed to appeal from the judgment of the Court of Common Pleas, in the ſame manner as if the ſuit had been originally commenced there. And every Juſtice of the Peace ſhall have power by public proclamation to adjourn the trial of any action brought before him, from time to time, when equity may require it; but he ſhall not be of counſel to either party, or undertake to adviſe or aſſiſt any party in ſuit before him.

In action of treſpaſs before a Juſtice of the Peace, if the defendant ſhall plead the title of himſelf, cauſe to be removed, and bond given.

Upon refuſal to recognize, the Juſtice to render judgment.

Parties allowed to appeal.

Justices to keep a fair record of their proceedings.

SECT. 3. *And be it further enacted*, That each Justice of the Peace shall keep a fair record of all his proceedings; and when any Justice of the Peace shall die before a judgment given by him is paid and satisfied, it shall be in the power of any Justice of the Peace in the same county to grant a *scire facias* upon the same judgment, to the party against whom such judgment was rendered up, for him to shew cause, if any he hath, why execution should not be issued against him. And although the cost and debt awarded by the deceased Justice, when added together, shall amount to more than *Eighty Shillings*, it shall be no bar upon such *scire facias*, but judgment shall be given thereon for the whole debt and cost, together with the cost arising upon the *scire facias*. *Provided always*, That either party may appeal from the judgment as in other personal actions, where judgment is given by a Justice of the Peace. And every Justice of the Peace who shall have complaint made to him, that a judgment given by a Justice of the same county, then deceased, remains unsatisfied, shall issue his summons to the person in whose possession the record of the same judgment is, directing him to bring and to produce to him the same record; and if such person shall contemptuously refuse to produce the same record, or shall refuse to be examined respecting the same, upon oath, the Justice may punish the contempt by imprisonment until he shall produce the same, or until he submits to be examined as aforesaid; and when the Justice is possessed of such record, he shall transcribe the same upon his own book of records, before he shall issue his *scire facias*, and shall deliver the original back again to the person who shall have produced it, and a copy of such transcription attested by the transcribing Justice, shall be allowed in evidence in all cases where an authenticated copy of the original might be received.

Proviso.

Executors, &c. committing waste, the Justice to proceed against their goods and estate.

SECT. 4. *And it is further enacted*, That when an executor or administrator shall be guilty of committing waste, whereby he is rendered unable to pay the judgment recovered before any Justice of the Peace, against the goods and estate of the deceased in his hands, out of the same, the Justice may proceed against the proper goods and estate of such executor or administrator, in the same manner as the Court of Common Pleas are empowered to do.

Justices to grant *subpœnas* for witnesses.

SECT. 5. *It is also enacted*, That each Justice of the Peace may grant *subpœnas* for witnesses in all civil actions and causes pending before the Supreme Judicial Court, Court of Common Pleas, Court of General Sessions of the Peace, and before him or any other Justices, and in all civil actions and causes pending before arbitrators or referees.

Party aggrieved, to appeal.

SECT. 6. *And be it further enacted*, That any party aggrieved at the judgment of any Justice of the Peace in a civil action, where both parties have appeared and plead, may appeal therefrom

therefrom to the next Court of Common Pleas to be held within the ſame county; and ſhall, before his appeal is allowed, recognize with a ſurety or ſureties in ſuch reaſonable ſum as the Juſtice ſhall order, not exceeding *Ten Pounds*, to pay all intervening damages and coſts, and to proſecute his appeal with effect, and ſhall be held to produce a copy of the whole caſe at the court appealed to, and both parties ſhall be allowed to offer any evidence upon the trial at the Common Pleas, in the ſame manner as if the cauſe had been originally commenced there. And no other appeal or review ſhall be had on ſuch action, after one trial at the Court of Common Pleas. And the Court of Common Pleas, when any perſon recognized as before mentioned to bring forward an action of treſpaſs, doth neglect to do it, upon complaint thereof made in writing by the plaintiff, ſhall give judgment for ſuch ſum in damages as the plaintiff hath declared for, together with all reaſonable coſts which accrued both in the ſame court, and before the Juſtice. And the Court of Common Pleas ſhall, when any appellant thereto ſhall fail to proſecute his appeal, or if he ſhall neglect to produce a copy of the caſe, affirm the former judgment upon the appellee's complaint, and award ſuch additional damages as ſhall have ariſen in conſequence of the ſaid appeal and coſt.

Party appealing, to bring the whole caſe.

SECT. 7. *Be it further enacted by the authority aforeſaid*, That in all civil actions triable before a Juſtice of the Peace, except ſuch actions of treſpaſs wherein the defendant means to avail himſelf, by pleading the title of himſelf or any other perſon, under whom he claims in juſtification of the treſpaſs or treſpaſſes alleged to be committed on real eſtate; the defendant ſhall be entitled to all evidence under the general iſſue, which by law he might avail himſelf of under any ſpecial plea in excuſe or juſtification; any law, uſage or cuſtom to the contrary notwithſtanding.

In all civil actions triable before a Juſtice of the Peace, except. The defendant to be entitled to all evidence under the general iſſue.

SECT. 8. *Be it further enacted by the authority aforeſaid*, That no action ſhall be ſuſtained in any Court of Common Pleas within this Commonwealth, where the damage demanded ſhall not exceed the ſum of *Four Pounds*, unleſs by an appeal from a Juſtice of the Peace, ſaving ſuch actions wherein the title to real eſtate may be concerned; and if upon any action originally brought before the Court of Common Pleas judgment ſhall be recovered for no more than *Four Pounds*, debt or damage, in all ſuch caſes the plaintiff ſhall be entitled for his coſts, to no more than one quarter part of the amount of the debt or damage ſo recovered.

No action to be ſuſtained where the damage demanded ſhall not exceed the ſum of *Four Pounds*, unleſs.

SECT. 9. *Provided nevertheleſs, and be it further enacted by the authority aforeſaid*, That all actions already commenced, or which may be commenced before the firſt day of *June* next, ſhall be proceeded upon, heard, and determined in the ſame manner as they might have been before the paſſing of this Act, any thing herein to the contrary notwithſtanding.

Proviſo.

[This Act paſſed *March* 11, 1784.]

Addit. Act, June 27, 1797.

An ACT describing the Duty and Power of Coroners.

Coroners to serve writs, &c.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every Coroner within the county for which he is appointed, shall serve all writs and precepts when the sheriff or either of his deputies shall be a party to the same, and shall, if present in court, return jurors *de talibus circumstantibus* in all causes where the sheriff of the county shall be interested or related to either party; they shall take inquests of violent deaths committed, and casual deaths happening within their respective counties, and shall, before they enter upon the duties of their office, be sworn to the faithful discharge thereof, and give security before they proceed to act, in the same manner as sheriffs by law are obliged to do.

Coroner to make out warrants for jurors.

SECT. 2. *And be it further enacted by the authority aforesaid,* That each Coroner shall, as soon as he shall be certified of the dead body of any person, supposed to have come to his death by violence, or casualty, found or lying within his county, make out his warrant, directed to the constable of the town where the dead body is found or lying, or to the constables of one or more of the three or four next adjacent towns, requiring them forthwith to summon a jury of good and lawful men of the same town or towns, sufficient to make up eighteen in all, to appear before him at the time and place in such warrant mentioned and expressed; which warrant shall be in form following:

Form of the warrant.

Suffolk, ss.

(Seal.) *To either of the Constables of* B—, *in the said county of* S—, GREETING.

THESE are in the name of the Commonwealth of *Massachusetts*, to require you immediately to summon and warn good and lawful men of the said town of *B* to appear before me, one of the Coroners of the said county of *S* at the dwelling-house of or at a place called within the said town of *B* at the hour of then and there to inquire upon the view of the body of there lying dead, how and in what manner he came to his death.

Fail not herein at your peril. Given under my hand and seal, at *B* the day of in the year of our LORD,

W. G.

Constables to execute the Coroner's warrant.

And every constable to whom such warrant shall be directed and delivered, shall forthwith execute the same, and shall repair to the place where the dead body is, at the time mentioned, and make return of the warrant with his doings thereon, unto the Coroner that granted the same. And every constable failing unnecessarily of executing such warrant, or of returning

turning the ſame as aforeſaid, ſhall forfeit the ſum of *Three Pounds*; and every perſon ſummoned as a juror as aforeſaid, that ſhall fail of appearance without having reaſonable excuſe therefor, ſhall forfeit *Forty Shillings*, which forfeitures ſhall be recovered by action of debt, before any court that can take cognizance of the ſame, and ſhall be applied to the uſe of the county. And the Coroner ſhall ſwear twelve or more of the jurors that ſhall appear, and ſhall give the foreman (by him appointed) his oath upon view of the body, in form following:

Jurors' oath.

YOU ſolemnly ſwear, that you will diligently inquire and true preſentment make on behalf of this Commonwealth, how and in what manner *A. B.* who lies here dead, came to his death; and you ſhall deliver up to me, one of the Coroners of this county, a true inqueſt thereof, according to ſuch evidence as ſhall be laid before you, and according to your knowledge. *So help you GOD.*

And then ſhall ſwear the other jurors, in form following:

SUCH oath as your foreman hath taken, you, and each of you, ſhall well and truly obſerve and keep. *So help you GOD.*

Coroner's charge to the jurors.

And the jurors being ſworn, the Coroner ſhall give them a charge upon their oaths, to declare of the death of the perſon, whether he died of felony, or of miſchance, or accident; and if of felony, who were principals, and who were acceſſaries, with what inſtrument he was ſtruck or wounded, and ſo of all prevailing circumſtances which may come by preſumption; and if by miſchance or accident, whether by the act of man, and whether by hurt, fall, ſtroke, drowning, or otherwiſe: To inquire of the perſons who were preſent, the finders of the body, his relations and neighbours, whether he was killed in the ſame place where he was found, and if elſewhere by whom, and how he was brought from thence; and of all circumſtances relating to the ſaid death: And if he died of his own felony, then to inquire of the manner, means, or inſtrument, and of all circumſtances concerning it. And the jury being charged ſhall ſtand together, and proclamation ſhall be made for any perſon that can give evidence, to draw near and that they ſhall be heard. And every Coroner is further empowered to ſend out his warrant for witneſſes, commanding them to come before him to be examined, and to declare their knowledge concerning the matter in queſtion, and he ſhall adminiſter an oath to them in form following:

Witneſſes' oath.

YOU ſolemnly ſwear, that the evidence which you ſhall give to this inqueſt, concerning the death of *A. B.* here lying dead, ſhall be the truth, the whole truth, and nothing but the truth. *So help you GOD.*

The

Witneſſes to be recognized.

The evidence of ſuch witneſſes ſhall be in writing ſubſcribed by them: And if they relate to the trial of any perſon concerned in the death, then ſhall the Coroner bind ſuch witneſſes by recognizance in a reaſonable ſum, for their perſonal appearance at the next Supreme Judicial Court, to be holden within or for the ſame county, there to give evidence accordingly, and commit to the common gaol of the county ſuch witneſs or witneſſes as ſhall refuſe to recognize as aforeſaid, and ſhall return to the ſame court the inquiſition, written evidence, and recognizance by him taken. And the jury having viewed the body, heard the evidence, and made all the inquiry within their power, they ſhall draw up and deliver unto the Coroner their verdict upon the death under conſideration, in writing, under their hands and ſeals, in form following:

Inquiſition.

Suffolk, ſſ. { AN inquiſition taken at *B* within the ſaid county of *S* the day of in the year of our Lord before *W. G.* gentleman, one of the Coroners of the ſaid county of *S* upon the view of the body of *A. B.* there lying dead, by the oaths of yeomen, good and lawful men, who being charged and ſworn to inquire for the Commonwealth, when, how, and by what means the ſaid *A. B.* came to his death, upon their oaths do ſay

[*Then inſert how, when, and by what means, with what inſtrument he was killed, and if it appears that he hath been murdered by a perſon known, then the inquiſition ſhall be concluded in this form:*] *to wit.*

And ſo the jurors aforeſaid, upon their oaths aforeſaid, do ſay, that the aforeſaid *A. B.* in manner and form aforeſaid, then and there of his malice aforethought, did kill and murder, againſt the peace and dignity of the Commonwealth, and the laws of the ſame,

[*If it appears to be ſelf-murder, then ſhall the inquiſition be concluded thus:*]

And ſo the jurors aforeſaid, thus upon their oaths aforeſaid, do ſay, that the ſaid *A. B.* in manner and form aforeſaid, then and there voluntarily and felonioufly as a felon of himſelf, did kill and murder himſelf, againſt the peace.

[*And if it appears that the death was by misfortune*]

And ſo the jurors aforeſaid, upon their oaths ſay, that the ſaid *A. B.* in manner aforeſaid, came to his death by misfortune.

[*If innocently by the hands of any perſon*]

The jurors upon their oaths aforeſaid do ſay, that the aforeſaid *D. R.* the aforeſaid *A. B.* by misfortune, and againſt and contrary to the will of him the ſaid *D. R.* in manner and form aforeſaid, did kill and ſlay. In witneſs whereof the ſaid Coroner

ner and jurors to this inquisition have set their hands and seals, the day and year abovesaid.

And upon an inquisition found before any Coroner of the death of any person, by the felony or misfortune of another, he shall speedily inform one or more of the Justices of the same county thereof, to the intent that the person killing or being any way instrumental to the death, may be apprehended, examined, and secured in order for trial.

Upon an inquisition found, the Coroner to inform one or more Justices thereof.

[This Act passed *March* 12, 1784.]

An ACT defining the general Powers and Duties, and regulating the Office of Sheriffs.

Feb. 27, 1795, an Act requiring further bonds.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the Sheriff of each county in this Commonwealth shall have power, and it shall be his duty, and the duty of each of his deputies, to serve and execute within his county, all writs and precepts to him or them directed and committed, issued from good and lawful authority; and the Sheriff of each county shall have the custody, rule, and charge of the gaol or gaols therein, and of all prisoners within such gaol or gaols, and shall keep the same himself personally, or by his deputy, for whom he shall be answerable; and every Sheriff shall give sufficient security at the discretion of the Court of Common Pleas, in his county, unto the Treasurer of the Commonwealth, for his faithful performance of the duties of his office, and to answer the malefeasance and misfeasance of all his deputies; and if any Sheriff shall neglect to give such security at the Court of Common Pleas which shall be held in his county, next after his being commissioned, all services done by him afterwards, and before he shall give such security, shall be null and void.

Sheriffs to have the custody of the gaols.

To give security.

SECT. 2. *And be it further enacted by the authority aforesaid,* That the Clerk of the Supreme Judicial Court, and each Clerk of the Peace, shall, within fifty days after the end of their courts respectively, return into the office of the Treasurer of the State, a certificate of all fines, amerciaments, issues, and forfeitures arising or imposed to the use of the Commonwealth, by their respective courts, on penalty of *Twenty Pounds* for each and every neglect, to be disposed of as follows, *viz.* the one moiety to him or them who shall sue for the same, and the other moiety to the benefit of this Commonwealth. And the Attorney-General, as well as such persons as may from time to time be appointed by the Courts of General Sessions of the Peace within their respective counties, be, and hereby are especially directed and enjoined to give information of, and prosecute for the

A certificate of all fines, &c. to be returned to the Treasurer.

Penalty for neglect.

Fines how to be recovered.

the recovery of all such fines and forfeitures as may be incurred by the Clerks aforesaid, in consequence of their breach of this Act: And the said Clerks shall respectively return a like certificate into the Secretary's office, that the General Court may thereby be enabled to settle with the Treasurer; and each Clerk of the Peace shall certify to the Treasurer of his county, the fines arising to the county from time to time, from convictions in the Court of General Sessions of the Peace. And the Supreme Judicial Court, and the Court of General Sessions of the Peace, shall audit and settle the Sheriffs' accounts for such fines as shall have been by them imposed, and for forfeitures arising in them respectively, and thereupon grant the Sheriff a full discharge.

No Sheriff to appear as an attorney.

SECT. 3. *And be it further enacted*, That no Sheriff or Deputy Sheriff shall be suffered to appear in any court, or before any Justice of the Peace, as attorney to, or in behalf of, or assisting, or advising to any party in a suit, nor shall any Sheriff or his deputy be allowed to draw, make or fill up any plaint, declaration, writ or process, or to draw or make any plea for any other person; but all such acts done by either of them shall be void. And if any Sheriff or his Deputy shall unreasonably neglect or refuse to pay to any person, any money received by him upon execution to the use of such person, upon demand thereof being made, he shall forfeit and pay to such person five times the lawful interest of such money, so long as he shall so unreasonably detain the same after such demand is made.

Penalty for detaining money.

SECT. 4. *And be it further enacted by the authority aforesaid*, That no Sheriff shall have his body arrested upon mean process, or upon an execution awarded upon a judgment consequent upon a civil action, and that when judgment shall be rendered against any person holding the office of Sheriff, either in his official or private capacity, for any sum of money, the execution thereof shall be issued against his goods, chattels, and lands, but not against his body; and if any execution issued against the goods, chattels, or lands of a person who holds the office of Sheriff, shall be returned not satisfied, the creditor may file before the Governor and Council an attested copy of such execution and return, and also serve such Sheriff with a copy of such copy filed, attested by the Secretary, together with notice under the hand of the Secretary, of the day of filing such copy. And if such Sheriff shall not, within forty days next after his being served with such copy and notice, pay the creditor the full of his debt, together with reasonable costs of the copies and notifications aforesaid, the Governor, with the advice of Council, shall remove such Sheriff from his office, and shall appoint some other person to the same.

Sheriffs not to have their bodies arrested.

Executions issued against the goods of the Sheriff, returned not satisfied, the creditor to file an attested copy of the same.

And all Sheriffs, when removed from their office, as well as their deputies, shall have power to execute all such precepts as may

may be in their hands at the time of their removal from office: And such Sheriff shall be held answerable for the delivery over to their respective successors, of all prisoners which may be in their custody at the time of their removal, and for that intent shall still retain the keeping of the gaol or gaols in their respective counties, and the prisoners therein, until their successors shall be appointed and qualified as the law directs. And when a Sheriff shall be removed from his office, the Clerk of the Court from whence executions have been issued and returned not satisfied, shall be empowered as soon as another Sheriff shall be appointed and legally qualified, to make out alias executions in common form, as well against the body as the goods, chattels, and lands of such person so removed.

Sheriffs when removed from their office, to execute certain precepts; and answerable for the delivery of prisoners.

[This Act passed *March* 12, 1784.]

An ACT for erecting Part of the Town of *Bernardston*, into a District by the Name of *Leyden*.

[This Act passed *March* 12, 1784.]

An ACT for establishing Courts of Probate.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That a Court of Probate shall be held within the several counties in this Commonwealth, and there shall be, in the manner the constitution directs, some able and learned person in each county within this Commonwealth, appointed or to be appointed Judge for taking the Probate of Wills, and granting administrations on the estates of persons deceased, being inhabitants of, or resident in the same county at the time of their decease; for appointing guardians to minors, idiots and distracted persons; for examining and allowing the accounts of executors, administrators or guardians; and for such other matters and things as the Courts of Probate, within the several counties, shall, by the laws of the Commonwealth, have cognizance and jurisdiction of; who shall have full power and authority to make out such process or processes, as may be needful for the discharge of the trust reposed in him; and all Sheriffs, Deputy Sheriffs and Constables, are required duly to serve and execute all legal warrants or summons to them directed by any Judge of Probate. And contempt of authority in any cause or hearing before any Judge of Probate, shall and may be punished in like manner, as such contempt of authority in any Court of Common Pleas may, or can by law be punished.

Court of Probate to be held within the several counties.

Judge of Probate to be appointed.

Sheriffs required to serve legal warrants of any Judge of Probate.

SECT. 2. *And be it further enacted*, That there shall be in manner as the constitution directs, a suitable person in each county

Register of wills to be appointed.

county within this Commonwealth, appointed or to be appointed Register of wills, administrations, accounts, decrees, orders, determinations, and other writings which shall be made, granted, or decreed upon by the Judges of Probate of Wills, in their

To be sworn.

respective counties, which Register shall be sworn to the faithful performance of the duties of his office, and have the care, custody, and keeping of all files, papers and books, to the Probate office belonging; and in case of the death, sickness, or necessary absence of the Register, it shall and may be lawful for the Judge of Probate to nominate and appoint some meet person to officiate as a Register, to be sworn as aforesaid, until the standing Register shall be able to attend his duty, or till a new one shall be appointed by the Governor and Council.

Supreme Judicial Court to be the Supreme Court of Probate.

SECT. 3. *Be it further enacted*, That the Supreme Judicial Court shall be the Supreme Court of Probate within this Commonwealth, who shall have the appellant jurisdiction of all matters determinable by the Judges of Probate in their respective counties; and all appeals from any order or decree of a Judge of Probate which shall be made after the passing of this Act, shall be to the said Court accordingly; and that the said Supreme Court of Probate shall also have cognizance in the first instance of all matters wherein the Judge of Probate of any county is a party or interested.

An appeal allowed.

SECT. 4. *And be it further enacted*, That any person aggrieved at any order, sentence, decree, or denial of any Judge of Probate in any county within this Commonwealth, may appeal therefrom to the Supreme Court of Probate aforesaid; *Provided*,

Proviso.

The appeal be claimed within one month from the time of making such order, sentence, decree, or denial, and bonds be given and filed in the Probate office by the appellant, within ten days after such appeal shall be claimed and granted, for the prosecution thereof to effect, at the next Supreme Court of Probate, and for paying all intervening costs and damages, and such costs as the Supreme Court of Probate shall tax against him.

Time when the appeal shall be taken notice of.

And such appeal shall be taken notice of, and proceeded upon at the term of the Supreme Judicial Court, which shall be holden next after the expiration of twenty days after such appeal shall be made, within and for the county where such order,

Appellant to file the reasons in the Probate Court.

sentence, decree, or denial was made; and the appellant shall file the reasons of appealing in the Probate Court appealed from, within ten days after the security is given, and shall serve the adverse party or parties with an attested copy of such reasons fourteen days at least before the sitting of the said Supreme Court of Probate, at which the trial is to be had. And when it shall appear from the reasons of appeal, that the sanity of the testator or the attestation of the witnesses in his presence as the law directs, is the question in controversy on any will or codicil, the said Supreme Court of Probate may, for the determination thereof,

thereof, direct a real or feigned issue to be tried before a jury in the same court at the expense of the appellant, in case the issue be found against him. And in case the party or parties appealing, fail in the prosecution of the said appeal to effect, then the adverse party, or any person interested in the sentence or decree so appealed from, shall have the benefit of the same, by filing a complaint before the Supreme Court of Probate, in like manner as is provided by law for affirming the judgment of the Court of Common Pleas in the Supreme Judicial Court; and the Supreme Court of Probate may assess reasonable costs in all cases that may be brought before them, by way of appeal from the respective Judges of Probate; and in case the appellee or appellees shall neglect or refuse to pay the costs that may be so assessed against him or them, the appellant may bring an action of debt therefor, or prosecute the bonds given for appealing.

Party appealing failing to prosecute to effect, adverse party to have the benefit of the same.

Provided always, That any person beyond sea, or out of the United States, who shall have no sufficient attorney within this government at the time of such order, sentence, decree, or denial, shall have one month after his or her return, or constitution of such attorney, to claim and prosecute their appeal as aforesaid.

Proviso.

SECT. 5. *Be it further enacted by the authority aforesaid*, That whenever there shall be an appeal from any order or decree of any Judge of Probate of any county within this Commonwealth to the Supreme Court of Probate aforesaid, and the appellant shall file in the Probate office the reasons of his appeal, and give bonds to prosecute the same with effect according to law, and shall notify the adverse party thereof, in that case all further proceedings in consequence of such order or decree, shall be stayed until a final determination shall be had thereon in the said Supreme Court of Probate.

In case of an appeal, further proceedings to cease until final determination.

[This Act passed *March* 12, 1784.]

An ACT to incorporate the South Parish in the Town of *Bolton*, together with *David Taylor*, *Silas Carley*, *Job Spafford*, and *John Brigham*, Inhabitants of *Marlborough*, with their Estates, into a District by the Name of *Berlin*.

[This Act passed *March* 16, 1784.]

An ACT for incorporating a Number of the Inhabitants of the first Parish in *Mendon*, in the County of *Worcester*, into a Society by the Name of *The First Congregational Society in Mendon*.

[This Act passed *March* 16, 1784.]

An

An ACT for appointing ſpecial Juſtices of the Courts of Common Pleas.

Preamble.

WHEREAS by an Act made and paſſed in the year of our Lord one thouſand ſeven hundred and eighty-two, entitled, "An Act eſtabliſhing Courts of Common Pleas," it is provided and enacted, that there ſhall be held and kept within each county of this Commonwealth, at the times and places by law appointed, a Court of Common Pleas, by four ſubſtantial, diſcreet and learned perſons, each one of whom to be an inhabitant of the county wherein he is appointed; but no proviſion is made for the appointment of ſpecial Juſtices to ſit in and hold the ſaid Court, when any of the ſtanding Juſtices thereof ſhall be intereſted, or neceſſarily abſent:

Governor, with advice of Council, to appoint ſpecial Juſtices.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That there ſhall, from time to time, be a ſuitable number of ſpecial Juſtices of the Courts of Common Pleas, appointed by the Governor, with the advice and conſent of Council, as the conſtitution directs, each one of whom to be an inhabitant of the county for which he may be appointed; and when it ſhall ſo happen that ſo many, not exceeding two, of the ſtanding Juſtices of the Court of Common Pleas ſhall be abſent at the time appointed by law for holding the ſaid Court, or at any adjournment of the ſame in any county, ſo that there cannot be a quorum of the ſtanding Juſtices of the ſame court to proceed to buſineſs, then and in ſuch caſe the ſenior ſpecial Juſtice of the ſaid county preſent, ſhall ſit in the room of one of thoſe abſent, with the two of the ſtanding Juſtices preſent, and ſhall have all the powers and authorities in ſuch caſe, as a ſtanding Juſtice hath by the laws of the State.

Senior ſpecial Juſtice to ſit with two ſtanding Juſtices. His powers.

Writ to bear teſt of his name, when all the ſtanding Juſtices ſhall be parties. The three ſenior ſpecial Juſtices to ſit when all the Juſtices are intereſted.

SECT. 2. *And be it further enacted,* That when all the ſtanding Juſtices of the Court of Common Pleas within any county, ſhall be parties in a cauſe at the time of bringing the ſuit, the writ ſhall bear teſt of the name of the ſenior ſpecial Juſtice of the county; and when all the ſaid ſtanding Juſtices ſhall be intereſted in the event of any ſuit brought in the court whereof they are Juſtices, and thereby ſhall be rendered unſuitable to ſit and give judgment in ſuch ſuit, then the three ſenior ſpecial Juſtices preſent, who ſhall not be intereſted in the event of each ſuit, ſhall take the ſeat of Juſtice, and have all the power and authority in ſuch ſuit as the ſtanding Juſtices have in any other caſe; and when ſuch cauſe ſhall be decided, the ſtanding Juſtices ſhall re-aſſume their ſeat, and proceed to the other buſineſs of the county, without any formalities of opening the court anew. And when ſo many of the ſtanding Juſtices of the Court of Common Pleas in any county, ſhall be

be interested in the event of any suit, or related to any person interested therein, and thereby shall be rendered unsuitable to sit and give judgment in such suit, then in such cases so many of the senior special Justices present, as may be necessary to make a quorum of the said Court, shall take the seat of Justice, and with him or them who are not interested in such suit, or related to any person interested therein, shall proceed to try the cause whereon such suit is brought, and give judgment in the same manner as the Court of Common Pleas are authorized to do in other suits.

And so many of them as shall make a quorum where only a part of the standing Justices are interested.

[This Act passed *March* 16, 1784.]

An ACT in Addition to the Act providing for the Payment of the Costs in criminal Suits.

[This Act passed *March* 16, 1784. Repealed *March* 1, 1792.]

An ACT vesting certain Powers in Justices of the Peace in criminal Cases.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That it shall be within the power, and be the duty of every Justice of the Peace within his county, to punish by such fine as is by the statute law of the Commonwealth provided, all assaults and batteries that are not of a high and aggravated nature, and to cause to be stayed and arrested all affrayers, rioters, disturbers and breakers of the peace, and to bind them by recognizance to appear at the next Supreme Judicial Court, or Court of General Sessions of the Peace, to be held within or for the same county, at the discretion of the Justice; and also to require such persons to find sureties for their keeping the peace, and being of good behaviour until the sitting of the court they are to appear before, and to commit such persons as shall refuse so to recognize and find such surety or sureties. And the Justices of the Peace shall examine into all homicides, murders, treasons, and felonies done and committed in their counties, and commit to prison all persons guilty or suspected to be guilty of manslaughter, murder, treason or other capital offence. And to hold to bail all persons guilty or suspected to be guilty of lesser offences which are not cognizable by a Justice of the Peace, and require sureties for the good behaviour of dangerous and disorderly persons; and shall take cognizance of, or examine into all other crimes, matters and offences, which by particular laws are put within their jurisdiction.

Duty of Justices of the Peace.

SECT.

Justices to grant *subpœnas* for witnesses.

SECT. 2. *And it is also enacted by the authority aforesaid*, That Justices of the Peace within their respective counties, be, and they are hereby authorized and empowered, to grant *subpœnas* for witnesses in all criminal causes pending before the Supreme Judicial Court, and Court of General Sessions of the Peace, and before themselves or any other Justice. And all Sheriffs, Constables and other officers, are directed and empowered to serve any warrant issuing from a Justice of the Peace; and each Justice shall have authority to command the assistance of every Sheriff, Deputy Sheriff, Constable, and all other persons present at any affray, riot, assault or battery, and may fine any person refusing such assistance, in a sum not exceeding *Forty Shillings*, to be disposed of for the use of the town where the offence shall be committed, and levied by warrant of distress on the offender's goods and chattels, and for want thereof, on his body.

Persons aggrieved, allowed an appeal from the sentence of any Justice to the Court of Sessions.

SECT. 3. *And be it further enacted by the authority aforesaid*, That any person aggrieved at the sentence given against him by any Justice of the Peace, may appeal therefrom to the next Court of General Sessions of the Peace, to be held within the same county, and shall, before his appeal is granted, recognize to the Commonwealth in such reasonable sum, not less than *Five Pounds*, as the Justice shall order, with sufficient surety or sureties for his prosecuting his appeal, and shall be held to produce the copy of the whole process, and of all writings filed before the Justice at the Court appealed to. And if he shall not there prosecute his appeal, and produce the copies as aforesaid, the Court shall order his default to be noted upon their record, and shall certify the same recognizance with the record of the default in the performance of the condition thereof, to the Court of Common Pleas, to the intent that a *scire facias* may be thereupon issued for the recovery of the penalty. And the said Court of General Sessions of the Peace may order the same case to be laid before the Grand Jury, or may issue an attachment against the body of such appellant, and cause him thereby to be brought before them, and when he is so in Court, shall affirm the sentence of the Justice against him with all additional costs.

Persons failing to prosecute their appeal, how to be proceeded against.

Justices of the Peace to account annually for all fines received.

SECT. 4. *And be it further enacted*, That the Justices of the Peace shall account annually with the Treasurer of the Commonwealth, the Treasurer of their respective counties, and the Town Treasurer, as the case may be, for all fines by them received or imposed, upon pain of forfeiting the sum of *Ten Pounds*, to be sued for and recovered by the Treasurer of the Commonwealth, the County or Town Treasurer for the time being, to which the said fines may respectively belong.

[This Act passed *March* 16, 1784.]

An

An ACT to prevent Coparceners, joint Tenants, and Tenants in common, from committing Waſte, and for making Partition of their Intereſt, and for aboliſhing the Principle of Survivorſhip in joint Tenancy.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That if any perſon being a tenant in common of any lands, ſhall cut down, deſtroy, or carry away any trees, wood or underwood whatſoever, ſtanding or laying on ſuch lands, or make any other ſtrip or waſte thereon, without firſt giving notice in writing under his or their hands, unto all the perſons intereſted therein, or to their agents, factors or attornies, forty days beforehand, ſetting forth that he or they have occaſion for, and ſhall enter upon and improve ſuch lot or lots of land lying in common as aforeſaid, ſhall forfeit and pay the ſum of *Forty Shillings* for every tree meaſuring one foot diameter at the diſtance of two feet from the ground, and for all trees of greater dimenſions three times the value thereof, beſides *Forty Shillings* as aforeſaid, and *Twenty Shillings* for every tree or pole under the dimenſions of one foot diameter, and for other wood or underwood treble the value thereof; and treble damage for other ſtrip or waſte; the ſaid forfeiture to be recovered by any one or more of the perſons intereſted, who ſhall proſecute and ſue for the ſame in an action of treſpaſs in his or their own names, as well on the behalf of the other tenants in common, as of him or themſelves, (who are hereby authorized and empowered ſo to do) one moiety of the aforeſaid penalty to be for the uſe of ſuch perſon or perſons who ſhall ſue for the ſame, and the other moiety to and for the uſe of the reſt of the tenants in common aforeſaid.

Tenants in common not to commit ſtrip or waſte on forfeiture.

Forfeitures how to be recovered.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That all perſons having or holding, or that hereafter ſhall have or hold any lands, tenements, or hereditaments, as coparceners, joint tenants, or tenants in common, may be compelled by writ of partition at the common law to divide the ſame; and when any writ ſhall be brought and ſerved at the ſuit of any one or more perſons intereſted in any lot or lots of land, tenements or hereditaments, held in common or undivided, or a petition ſhall be pending in the Supreme Judicial Court for a diviſion and partition of the ſame, no perſon or perſons whatſoever having a right to, or intereſt in any ſuch lands, tenements, or hereditaments, or holding any part or ſhare of the ſame in common as aforeſaid, (whilſt ſuch ſuit or petition is depending) ſhall or may cut down, deſtroy, or carry away any trees, timber, wood or underwood whatſoever, ſtanding, growing, or lying on ſuch lands, or ſhall otherwiſe hurt or damnify

Coparceners, joint tenants, &c. compellable to a diviſion by writ of partition. Appendix, chap. 3, ſect. 5, Prov. law.

No perſon intereſted, to cut trees, &c. after the ſervice of ſuch writ, on penalty.

damnify any such lands, tenements, or hereditaments, until partition can be made of the same according to law, on pain that every person or persons so offending, shall incur the like forfeitures and penalties as are before in this Act mentioned, to be recovered in like manner as before named, and for such uses as are before mentioned and declared.

And to prevent any doubts hereafter, respecting the manner heirs are to prosecute in the courts of law, for possession of inheritances descended to them from a common ancestor:

Heirs may bring real actions jointly or severally.

SECT. 3. *Be it further enacted*, That in actions of waste, ejectment or other real actions, where possession of the inheritance alleged to have descended, is the object of the suit, they may all or any two or more of them join, or each one may prosecute for his particular share, any law, usage or custom to the contrary notwithstanding.

And whereas the principle of survivorship established by the rules of the common law, in cases where lands or other real estate are, or may be held in joint tenancy, has been found by experience to work great injustice in various instances: And whereas the reasons upon which the said principle was originally founded, have long ceased to exist:

Principle of survivorship or joint tenancy abolished.

In devises.

SECT. 4. *It is therefore further enacted*, That the said principle of survivorship shall no longer be in force in this Commonwealth, and all devises of lands, or other real estate that may hereafter be made, in manner prescribed by law by any joint tenant, shall have all the force and effect of devises duly and legally made and executed by any tenant or tenants who may hold lands or other real estate in severalty.

In descents.

SECT. 5. *And it is further enacted*, That where no disposition shall be made of any real estate held in joint tenancy in the life-time of the tenant, the same shall descend to his or their legal representative or representatives, in the same manner as real estates held in severalty do or may by law descend.

[This Act passed *March* 16, 1784. Repealed *March* 9, 1786; but some estates might vest under it.]

An ACT to prevent Frauds on the *Massachusetts* Bank.

Officers of the bank embezzling any money, &c. their punishment.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That if any president, director, officer, or servant of the *Massachusetts* Bank, shall secrete, embezzle, or convert to his own use, any note, bill, obligation, security, money, or effects, belonging to the said Bank, or deposited there by any other person, every person so offending and being thereof convicted before the Supreme Judicial Court, shall be set upon

upon the gallows with a rope about his neck, or be ſet in and upon the pillory, for the ſpace of two hours, ſhall forfeit all his perſonal eſtate, and the iſſues and profits of his real eſtate during life, to the uſe of the Commonwealth, (after deducting ſuch ſum as ſhall indemnify the Bank for the loſs they may have ſuſtained by means of the ſaid fraud) and ſhall ever after be rendered infamous and incapable of ſuſtaining any office either civil or military.

Perſons who ſhall counterfeit any bank note, &c. their puniſhment.

SECT. 2. *And be it enacted by the authority aforeſaid*, That if any perſon ſhall forge, counterfeit, or alter any bill, note, or obligation, made, ſigned, or given for or in the name of the preſident, directors, caſhier, or other perſon in behalf of the ſaid Bank, or ſhall forge, counterfeit, or alter any indorſement on ſuch bill, note, or obligation, or ſhall forge, alter, or counterfeit any order or check drawn by any perſon on the ſaid preſident, directors, or caſhier; every perſon ſo offending, and being thereof convicted before the Supreme Judicial Court, ſhall ſuffer the pains, penalties, forfeitures, and diſabilities as aforeſaid, and ſhall be ſubjected to hard labour within this Commonwealth, during the term of ſeven years; to be diſpoſed of by the directors of the ſaid Bank, in ſuch manner and under ſuch confinement as they ſhall direct, for the uſe and benefit of the ſaid Bank.

Perſons who ſhall knowingly paſs counterfeit bank notes, &c. their puniſhment.

SECT. 3. *And be it enacted by the authority aforeſaid*, That if any perſon ſhall utter, paſs, tender in payment, or offer to paſs any forged, altered, or counterfeited bill, note, or obligation, made, ſigned, or given in the name of the ſaid preſident, directors, caſhier or other perſon, in behalf of the ſaid Bank, or any order or check drawn by any perſon on the ſaid preſident, directors, or caſhier, knowing ſuch bill, note, obligation, or check to be ſo forged, altered, or counterfeited; every perſon ſo offending, and being convicted as aforeſaid, ſhall ſuffer the pains, penalties, forfeitures, and diſabilities as aforeſaid, and ſhall be ſubjected to hard labour in manner and for the purpoſe as aforeſaid.

Perſons who ſhall counterfeit inſtruments to convey ſhares of bank ſtock, their puniſhment.

SECT. 4. *And be it enacted by the authority aforeſaid*, That if any perſon ſhall forge, alter, or counterfeit any letter of attorney, order or other inſtrument, to transfer or convey any ſhare or ſhares of ſtock in the ſaid Bank, or to receive the ſame or any dividend or part thereof, or ſhall knowingly and fraudulently demand to have ſuch ſhare or ſhares, dividend or any parts thereof, transferred, conveyed, or received by virtue of ſuch forged, altered, or counterfeited letter of attorney, order or other inſtrument, or ſhall falſely and deceitfully perſonate any true and lawful proprietor or proprietors of any ſhare or ſhares of ſtock or dividend, or money, or other property depoſited in the ſaid Bank, thereby transferring or endeavouring to transfer the ſaid ſtock, dividend, money, or other property, or

receiving or endeavouring to receive the said stock, dividend, money, or other property, in every such case the person so offending and being thereof convicted as aforesaid, shall suffer the pains, penalties, ferfeitures, and disabilities as aforesaid, and shall be subjected to hard labour in manner and for the purpose as aforesaid.

[This Act passed *March* 16, 1784.]

July 11, 1783. An ACT in Addition to an Act, entitled, "An Act for the Admeasurement of Boards, and regulating the Tale of Shingles, Clapboards, Hoops and Staves, and for other Purposes therein mentioned."

Preamble.

WHEREAS it is the wisdom of every commercial country to prevent an abuse in the manufacture of those articles intended for exportation, in such a manner as that they may preserve their credit with foreigners, and thereby render their exports as permanent and beneficial as possible: And whereas the above mentioned Act does not sufficiently provide for carrying the good intentions thereof into effect:

Any port or place not within this Commonwealth, to be considered as a foreign market, as to the restrictions on shipping of lumber.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That from and after the first day of *January* next, wherever the restriction upon the shipping of any kind of lumber is mentioned in any of the clauses of the before recited Act, to or for any foreign market, or beyond sea, the same shall be considered and understood to extend to any port or place not within this Commonwealth, and that, previous to any naval officer's clearing out any vessel with lumber to any port or place not within this Commonwealth, the like certificate of such staves, hoops, clapboards and shingles having been culled or surveyed, shall be produced, and the same oath administered, as is required to be produced and administered by the aforesaid Act for the exportation of lumber to a foreign market.

Additional penalty for exporting lumber not being first surveyed.

SECT. 2. *And be it further enacted by the authority aforesaid,* That from and after the first day of *January* next (in addition to the penalty of *Twelve Shillings* per thousand, as mentioned in the said Act for the shipping of lumber otherwise than is therein prescribed, to be reckoned by feet or tale according as the articles are usually sold) whenever it shall appear that any of the kinds of lumber mentioned in the said Act have been exported in any vessel whatever out of this Commonwealth, to any port or place not within the same, unless the said lumber has been first culled or surveyed agreeable to the said Act; the master or owner of such vessel shall, for the first offence, forfeit and pay the sum of *Fifty Pounds*, and for the second offence the vessel so carrying the said lumber as aforesaid, being afterwards

afterwards found in any part of this Commonwealth, shall be forfeited, to be recovered and applied in like manner as is provided by the said Act, for recovering and applying the penalty of *Twelve Shillings* per thousand as aforesaid.

And whereas some persons, from consulting their private convenience in preference to the commercial benefit of the public, may endeavour to evade the good intentions of the before recited Act, by clearing out or exporting the kinds of lumber mentioned therein, without the same being culled or surveyed agreeable to the said Act, by calling it by some other name than what it is usually known by:

Naval officer not to clear any vessel loaded with lumber mentioned in a former act, under pretence of its being chips, &c.

Nor without a certificate of its being surveyed.

On penalty.

SECT. 3. *Be it therefore enacted by the authority aforesaid*, That from and after the first day of *January* next, no naval officer, in any case whatever, shall presume to clear any vessel for any port or place not within this Commonwealth, that may have any lumber of the kind on board, mentioned in the before recited Act, under the specious pretence of its being chips, wood, or refuse lumber, or by whatever name it may be called, otherwise than what it is usually known by; and if it can be made to appear that any naval officer shall knowingly clear any vessel with lumber on board, of the kind as mentioned in the aforesaid Act, to or for any port or place not within this Commonwealth, without a certificate being produced previous to his clearing the said vessel, of the said lumber's being culled or surveyed agreeable to the said Act, or shall clear the same under any other name whatever; the said naval officer for such neglect of duty, shall forfeit and pay for every such offence, *One Hundred Pounds*, to be disposed of one half to the poor of the town where such offence is committed, and the other half to the surveyor, or any other person who shall sue for the same; which they are hereby enabled to do by action, bill, plaint, or information, in any court proper to try the same. And on information's being given to the said naval officer, by any two or more credible witnesses (upon oath if thereto required) of such vessel's having such lumber on board, previous to his clearing the same; such information so given to the said naval officer, shall be deemed his having sufficient knowledge of the same.

Penalty for a naval officer's conniving at any breach of the case.

SECT. 4. *And be it further enacted*, That when any naval officer shall connive at any breach of this or the before recited Act, or when information is properly given to him, with sufficient evidence of any violation thereof, and he neglects to inquire into and prosecute the same as his duty requires, upon proof being exhibited of such neglect, before the Court of General Sessions of the Peace, for the county where the said officer may reside; shall, if convicted of the said neglect before the said Court, be adjudged by the said Court as incapacitated from any further exercise of his office. And in case of the

the removal of such officer for such neglect, the naval officer of the port nighest the place from whence the said officer may be removed, shall do and exercise all the duties of the said office until another may be appointed in his stead.

Allowance for drying and shrinking of pine boards, &c.

SECT. 5. *Be it further enacted by the authority aforesaid*, That a proper allowance shall be made for the drying and shrinking of pine boards, and that such as shall be seven-eighths of an inch thick after being fully seasoned, or in the same proportion as to thickness, being partly seasoned, and that any shingles being four inches in width on an average, shall be accounted merchantable, and may be sold here as such, or shipped or exported to any market. *Provided*, That such boards and shingles shall, in all other respects, be conformable to the said Act; and all naval officers, surveyors, and other persons concerned, are directed and required to govern themselves accordingly; any thing in this or the Act aforesaid to the contrary notwithstanding.

Proviso.

Operation of an act suspended.

SECT. 6. *And be it further enacted*, That the operation of the Act aforesaid, and every article and clause thereof be, and, hereby is suspended until the first day of *January*, which will be in the year of our Lord one thousand seven hundred and eighty-five.

[This Act passed *March* 16, 1784.]

An ACT for the restraining the Taking of excessive Usury.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That no person or persons upon any contract hereafter made, shall take directly or indirectly for loan of any monies, wares, merchandize, or other commodities whatsoever, above the value of *Six Pounds*, for the forbearance of *One Hundred Pounds* for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter time; and that all bonds, contracts, mortgages, and assurances whatsoever, made for the payment of any principal or money lent, or covenanted to be lent, upon or for usury, whereupon or whereby there shall be reserved or taken above the rate of *Six Pounds* in the hundred as aforesaid, shall be utterly void; and that all and every person and persons who shall upon any contract take, accept, and receive by way and means of any corrupt bargain, loan, or exchange, or by covin or deceitful conveyance, or by any other ways or means whatsoever, for the forbearing or giving day of payment for one whole year, of and for their money, or other thing or things, above the sum of *Six Pounds*, for the forbearing of *One Hundred Pounds* for a year, and so after that rate

Six per cent. interest per annum for the loan of money.

rate for a greater or leſſer ſum, or for a longer or ſhorter time, ſhall forfeit and loſe for every ſuch offence the full value of the goods and monies, or other things ſo lent, exchanged, bargained, ſold or agreed for, to be recovered by indictment, or action of the caſe, one moiety thereof to the uſe of this Commonwealth, and the other moiety to him or them who proſecutes, complains, or ſues for the ſame, any cuſtom, uſage or law to the contrary notwithſtanding. Penalty for contracting for more.

Sect. 2. *And be it further enacted*, That when and ſo often as any perſon or perſons are or ſhall be ſued on any bond, contract, mortgage, or aſſurance whatſoever, for the payment of any monies, wares, merchandize, or other commodities whatſoever, whereby or wherein any ſum is given, ſecured, or taken for the forbearing, or giving day of payment for a longer or ſhorter time; then and in ſuch caſe, (the creditor being alive) if the debtor or debtors ſhall come into Court where the ſaid cauſe is to be tried, and ſhall offer to make oath, and if required by the Court, ſhall actually ſwear to the ſame, that there is taken, reſerved, or ſecured by ſuch bond, contract, or aſſurance, above the rate of *Six Pounds* in the hundred, for the forbearance of the property actually lent or ſold, whether it be in money or other things, for one year, and ſo after that rate for a greater or leſſer ſum, or for a longer or a ſhorter time, or that the creditor or creditors have received more than at the rate of *Six Pounds* in the hundred, for the loan or forbearance of the monies or other things actually lent or ſold; ſuch bond, contract, mortgage or aſſurance ſhall be utterly void, and the debtor fully and abſolutely diſcharged from the payment of any monies, goods, or other things lent, exchanged, bargained, ſold, or agreed for as aforeſaid, unleſs the creditor or creditors will ſwear that he, ſhe or they have not, directly or indirectly, wittingly taken or received more than after the rate of *Six Pounds* in the hundred, for forbearance or giving day of payment; and that by ſuch bond, contract, mortgage, or aſſurance, there is not reſerved, ſecured, or taken, more than after the rate of *ſix per cent.* for forbearance or giving day of payment for the goods, monies, or other things actually lent or ſold, any law, uſage or cuſtom to the contrary notwithſtanding. Proof to be made by the debtor's oath. Unleſs the creditor will diſcharge himſelf upon oath.

Provided, Nothing in this Act ſhall extend to the letting of cattle, or other uſages of the like nature in practice amongſt farmers, or maritime contracts among merchants, as bottomry, inſurance, or courſe of exchange, as hath been heretofore accuſtomed. Proviſo.

[This Act paſſed *March* 16, 1784.]

An

An ACT for repealing certain Parts of one Act regulating Pilotage, and for repealing an Act for altering and amending the same.

Preamble.

WHEREAS one Act made and passed the eleventh day of *July* last, entitled, "An Act for regulating Pilotage," has not been found productive of the good effects thereby intended, so far as the same respects the establishing and regulating of pilots and pilot-boats for the coast of *Martha's Vineyard*:

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the said Act, so far as the same respects the appointing and regulating of pilots and pilot-boats for the coast aforesaid, together with one other Act made and passed the twenty-fourth day of *October* last, for the amendment of the same, be, and hereby is repealed and made null and void.

Part of an act for regulating pilotage, and an additional act, repealed.

[This Act passed *March* 16, 1784.]

An ACT directing the issuing, extending and serving of Executions.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the party obtaining judgment in a civil action, in any court of judicature within this Commonwealth, shall be entitled to have his execution thereon at any time after the expiration of twenty-four hours after judgment rendered, and within one year next after the entering up of such judgment, *Provided*, that there is no appeal granted or bond given for review. And execution issuing from the Common Pleas, shall be made returnable to the next Court of Common Pleas to be held within the county, excepting where there are but two or three courts in a year, in which case they shall be made returnable within three months, unless the Court of Common Pleas shall sit within that time, and in that case it shall be made returnable to the next Court, and those issuing from the Supreme Judicial Court shall, in such counties as have two Supreme Judicial Courts established to be holden annually in them, be made returnable to the next Court; and in those counties where the said Court is held but once a year, the executions therefrom shall be made returnable at the end of six months, unless the Supreme Judicial Court shall sit in the said county within that time, and in that case it shall be returnable to the same, and those issuing from a Justice of the Peace, shall be made returnable within sixty days from the day of issuing them; and when such executions shall be returned without any satisfaction made or satisfied only in part, the Clerk of the Court from whence, or Justice from whom such execution issued, shall, upon application

Party obtaining judgment entitled to his execution in twenty-four hours.

Proviso.

Executions when returnable.

June 14, 1785, March 7, 1791, Appendix, ch. 35, sect. 1, 2. chap. 13, sect. 1, 2. ch. 46, sect. 1, 2, 3, Prov. law.

If returned not satisfied, alias to be granted.

tion of the creditor, make out an alias or pluries execution for the whole or the remainder, as the case may be, till the judgment shall be fully satisfied: But if the party shall neglect for the space of one year next after obtaining judgment to take out his execution, or shall not, within one year next after his execution shall be returned not satisfied, take out his alias or pluries, he shall sue out his writ of *scire facias*, and shall cause the adverse party to be served with the same personally, or by leaving an attested copy thereof at his last and usual place of abode, fourteen days before the sitting of the Court, notifying him to shew cause, if any he hath, why execution ought not to be done; and upon his non-appearance or not shewing sufficient cause, the Court shall award execution for what remaineth, with additional costs.

If not taken out within a year, writ of *scire facias* to be sued out.

Sect. 2. *And be it further enacted by the authority aforesaid*, That when any person shall obtain judgment in any court within this Commonwealth, for any sum of money or other specie, and the person or persons against whom the judgment is, does not satisfy such judgment by money or other specie, and the creditor can find no personal estate to his acceptance wherewith to satisfy his execution, and shall think proper to levy his execution upon the debtor's real estate; then the officer to whom the execution is directed and delivered, shall cause three disinterested and discreet men, being freedolders in the county, one to be chosen by the creditor or creditors, one by the debtor or debtors, whose land is to be taken, if they see cause, and a third by the officer; and in case the debtor or debtors shall neglect or refuse to choose as aforesaid, the officer shall appoint one for such debtor or debtors, to be sworn before one of the Justices of the Peace of the same county, faithfully and impartially to appraise such real estate as shall be shewn to them who shall appraise the same, to satisfy the same execution with all fees, and shall set out such estate by meets and bounds, and the officer shall deliver possession and seizen thereof to the creditor or creditors, his or their attorney. And when the real estate of the debtor or debtors shall be held in joint tenancy, in coparcenary or tenancy in common with the real estate of other persons, then the said officer may extend execution on such debtor or debtors' real estate held as aforesaid, or part thereof, describing the same with as much precision as the nature and situation thereof will admit of, and give the creditor or creditors, his or their attorney, seizen or possession of such debtor or debtors' real estate held as aforesaid, or part thereof, to hold in common with the said other persons; which execution, being returned with the doings thereon into the clerk's office, and before such return into the clerk's office or afterwards, and within three months, the same shall be recorded in the registry of deeds in the county where the land lays, shall make as good title to such creditor or creditors, his or their heirs and assigns as the debtor had therein.

Real estate of debtors liable to be taken by execution.

Sect.

Equity of redemption allowed within one year.

SECT. 3. *And it is further enacted,* That when any tenement or lands in part or in whole shall be taken in execution for debt, it shall and may be lawful to and for the person, his heirs or assigns, executors or administrators, whose estate is so taken in execution, within the space of one year next following the extending execution thereon, and not afterwards, to tender the creditor or the tenant in possession under his title by the execution, the full of the debt for which the same tenement was taken, with interest from the time of the extending the execution, and the reasonable and necessary charges and disbursements laid out and expended thereon in repairing or bettering the same, over and above what the rents, profits and improvements thereof shall fall short of reimbursing, such charges and interest to be accounted for by the party for whom the same was taken, or the tenant in possession, under his title, which disbursements, expenses, rents, profits and improvements may be settled by any three Justices of the Peace in the county where the land lays, at the charge and expense of the debtor, one to be chosen by the debtor, and the other by the creditor, if he shall see cause to choose one, otherwise they may be both chosen by the debtor, and the third by the two Justices so chosen by the parties, or one of them as above directed, and which third shall be chosen before the other two proceed to a consideration of the business; and if the creditor or the tenant in possession as aforesaid, upon having a tender made of the sum certified under the hands of the said Justices chosen as aforesaid, or either two of them, to be due to him upon the execution, shall refuse to execute a good and lawful deed of release to the debtor or his heirs (in case of his decease) of the land or tenement so taken in his execution, the debtor or his heirs, executors, or administrators who shall make such tender, may bring his action of ejectment against the creditor or the tenant in possession, under his title; and upon lodging in court the money tendered, shall recover the title and possession of the land, as fully as the debtor held the same before the extending the execution upon it, together with his cost of suit.

Provided nevertheless, That if the creditor or the tenant in possession under him as aforesaid, shall, before the bringing the action, have offered the debtor or his heirs, executors or administrators, to make and execute such deed of release, and shall plead the same with disclaimer to the premises; then and in such case, upon the plaintiff's producing in court the money so tendered, judgment shall be given for the plaintiff to recover possession of the lands so taken in execution, and the defendant shall recover his cost. And when it so happens that the real estate extended upon, cannot be divided and set out by meets and bounds as before prescribed, or by the description before mentioned, then execution shall be extended upon the rents of such real estate, and the officer shall give seizen thereof to the creditor

When real estate cannot be divided, &c. execution to be extended upon the rents.

creditor or creditors, his or their attorney; and alſo in caſe of extending execution on rents as aforeſaid, ſhall cauſe the perſon in poſſeſſion and improvement, to attorn and become tenant to ſuch creditor or creditors, and to pay the rent to him or them accordingly; and upon refuſal thereof, to turn the perſon ſo refuſing out of poſſeſſion, and give ſeizen and poſſeſſion of the ſame to the creditor, to hold and enjoy the ſame until it ſhall be redeemed, as by this Act is provided. *Provided always,* That in ſuch caſe it ſhall and may be lawful for any debtor or debtors, his or their executors, adminiſtrators or aſſigns, at any time before the debt with intereſt is fully ſatisfied, to tender and pay to the creditor or the tenant in poſſeſſion under him, the full remainder of his debt, intereſt and charges, to be liquidated by the Juſtices of the Peace in manner before provided in this Act, and to recover the poſſeſſion of the ſame as before provided. Proviſo.

Act, March 1, 1799.

SECT. 4. *And it is further enacted by the authority aforeſaid,* That all rights in equity of redeeming lands, mortgaged reverſions, or the remainders, ſhall be liable to be taken by *capias* or attachment upon mean proceſs, and by execution upon judgment recovered for the payment of the juſt debts of the mortgager or owner; and any perſon at whoſe ſuit ſuch right in equity of redeeming ſuch mortgaged lands is taken in execution, ſhall have the ſame and as full and ample right and power of redeeming ſuch lands as the mortgager himſelf had or ought to have, and may procure and receive a diſcharge of mortgages, in the ſame manner as the original mortgager might have done, ſaving always to widows their dower in all lands taken from their huſbands by execution. Right of redeeming lands liable to be taken by attachment and execution.

SECT. 5. *And be it further enacted,* That when any goods or chattels ſhall be taken to ſatisfy an execution iſſuing upon a judgment obtained, ſuch goods or chattels ſhall be ſafely kept by the officer, at the expenſe of the debtor, for the ſpace of four days next after they are ſo taken; and if within that time the owner ſhall not redeem the ſame, by otherwiſe ſatisfying the execution, ſuch goods and chattels ſhall be ſold at public vendue to the higheſt bidder, having firſt been advertiſed by the poſting up notifications of the time and place of ſale, forty-eight hours before the expiration of the four days, in the town or place where the ſale is to be, and the money ariſing upon ſuch ſale ſhall be applied to the paying charges, and the ſatisfying the execution, and the officer ſhall return the overplus (if any there be) to the debtor. And the officer who is poſſeſſed of the execution, ſhall make return of the ſame with his doings therein, particularly deſcribing the goods taken and ſold, and the ſum for which each article was ſtruck off, and if any officer ſhall be guilty of any fraud in the ſale or in the return, he ſhall be liable to the debtor to pay him five times the ſum defrauded, to be recovered by action of the caſe. Goods taken by execution, to be ſold at public vendue.

[This Act paſſed *March* 17, 1784.]

An ACT prescribing the Method of satisfying Judgments in Favour of this Commonwealth.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That upon all judgments already recovered, which remain unsatisfied, or that may hereafter be recovered, in the name or for the use and benefit of this Commonwealth, for any sum or sums of money, in any of the courts of law within this Commonwealth, a warrant of distress reciting such judgments respectively, shall issue thereon, which shall be directed to such officer or officers as writs of execution are by law to be directed to, who shall be thereby directed to levy the monies mentioned and expressed in such warrant of distress, of the money, goods or estate of such debtor or debtors, and for want thereof on his or their body or bodies, and to commit him or them unto the common gaol in the county where apprehended; and in all such cases the said sum or sums of money mentioned and expressed in such warrant of distress (where the same can be done) shall be satisfied out of the monies or personal estate of the debtor or debtors.

Warrant of distress to be issued upon all judgments recovered in favour of the Commonwealth.

SECT. 2. *And be it further enacted,* That before sale be made of any personal estate by virtue of a warrant of distress to be issued as aforesaid, notice shall be given of the time and place of sale, by posting up notifications thereof, by the officer executing such warrant, in two or more public places in the town or plantation where the warrant is executed, (within which the sale shall be) four days at the least before the time of sale.

Notice to be given of the sale of goods taken by warrant of distress.

SECT. 3. *And be it further enacted by the authority aforesaid,* That when it shall be necessary to dispose of real estate to satisfy such warrant of distress, in whole or in part; the officer executing the same is hereby fully authorized, empowered and directed, to make, execute, acknowledge, and deliver to the highest bidder, good and sufficient deed or deeds of any real estate sold at public vendue, in manner as hereafter expressed.

Real estate taken by warrant of distress, to be sold to the highest bidder.

Proviso.

SECT. 4. *Provided always, and it is enacted by the authority aforesaid,* That the officer executing such warrant of distress, when real estate shall be taken as aforesaid, shall give public notice of the time and place of sale, by posting up notifications thereof in two or more public places in the town or plantations where the real estate lies, thirty days before the time of sale, and also in two or more public places in two adjoining towns. And where it shall so happen, that the sum for the satisfaction of which a warrant of distress shall be levied on any real estate as aforesaid, shall amount to the sum of *One Hundred Pounds*, the officer executing the same, shall, in addition to the notifications aforesaid, cause an advertisement of the time and place of such sale, to be published in some public newspaper printed in the county where such real estate lies, three weeks successively

ly before the day of sale, if any such newspaper shall be there printed, but if not, then said officers shall cause advertisement, in manner aforesaid, to be published in a newspaper printed in the Commonwealth nearest the county where such land lies. And in case the estate notified for sale as aforesaid, shall not be disposed of at the time and place appointed, the officer shall adjourn the vendue, not exceeding three days, and so from time to time, until the sale shall be completed.

Deeds executed in pursuance of this act, to be effectual.

SECT. 5. *And be it further enacted by the authority aforesaid*, That deeds made and executed as aforesaid, shall be as effectual to all intents and purposes, to convey the debtor's title in such real estate to the vender, his heirs, executors, or administrators, as if the same had been made or executed by such debtor or debtors.

Equity of redemption within one year.

SECT. 6. *Provided always, and be it enacted by the authority aforesaid*, That every such debtor shall have liberty to redeem such real estate, within the term of one year from the time of executing deed or deeds thereof in manner aforesaid, by paying the sum at which the same may be sold, together with the interest thereof, to the person who purchased the same, or to his heirs or assigns.

Warrants of distress to be sealed, &c. in the same manner as other judicial writs.

SECT. 7. *And be it further enacted by the authority aforesaid*, That all warrants of distress to be issued as aforesaid, shall be under the seal of the court from whence they issue, be signed by the Clerk, and bear test the chief or first Justice thereof, and be made returnable in the same time and manner other judicial writs are, or by law may be. And whenever any such warrant of distress shall be returned satisfied in part only, an alias or pluries warrant of distress for the sum remaining due shall issue; and the Clerks of the respective courts shall be entitled to take and receive the same fees for the said warrants of distress, as for writs of execution, and no more.

Proviso where judgments are recovered against debtors to persons whose estates may be confiscated to the Commonwealth.

SECT. 8. *Provided always, and be it further enacted by the authority aforesaid*, That in all cases where judgment as aforesaid shall be recovered against any person or persons, as debtor or debtors to any person or persons where estate or estates have been or may be confiscated, become forfeit, or be otherwise transferred to the use of the Commonwealth, executions shall be levied in the same manner as is or may be by law provided in case of judgment, recovered by one individual against another in their private capacities respectively, any thing herein contained to the contrary notwithstanding.

Attorney General vested with all the powers of the creditors in such cases.

SECT. 9. *And be it further enacted*, That the Attorney-General of the said Commonwealth for the time being, or any person who may be by him appointed for the purpose, or any agent who may be specially appointed by the General Court, shall respectively be vested with all the powers in extending and levying executions on the persons or estates of any such debtor or debtors, as the creditor or creditors would have had, provided no such confiscation, forfeiture or transfer had taken place.

[This Act passed *March* 17, 1784.]

An ACT to authorize the Courts of Law to enter up Judgment against the Goods and Estate of deceased Persons, when the Executor or Administrator neglects or refuses to prosecute or defend.

Preamble.

WHEREAS the courts of common law, when the plaintiff or defendant, appellant or appellee die before judgment, are not authorized to render judgment against the estate of the deceased, unless the executor or administrator does voluntarily appear and become a party to the suit:

Where parties to actions die, and the administrator refuses to prosecute, &c. judgment to be made up as in case of voluntary appearance.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That in all actions now pending, or that may be hereafter pending in the Supreme Judicial Court, or in any Court of Common Pleas in this Commonwealth, by appeal, continuance or otherwise, and the plaintiff or defendant, appellant or appellee, complainant or respondent shall die before final judgment, and the executor or administrator of the deceased party, after taking upon himself the said trust, shall neglect or refuse to become a party to the suit, the Court before whom such cause shall be pending, in case the cause of action does by law survive, may enter up judgment against the goods and estate of the deceased party, in the same way and manner judgment might have been, in case the executor or administrator had voluntarily after such death made himself a party to the suit. *Provided always,* That such executor or administrator be duly served with a notification from the Clerk of the Court where such suit is pending, fourteen days beforehand.

Proviso.

Estates attached not to be discharged by the death of the party.

SECT. 2. *And be it further enacted by the authority aforesaid,* That when any goods or estate are attached upon any writ or process which shall be pending as aforesaid, the same shall not be released or discharged, by reason of the death of either party, but be held good to respond the judgment to be given on such suit or process, in the same manner as by law they would have been if such deceased person had been living; any law, usage or custom to the contrary notwithstanding. *Provided always,* That where any estate attached as aforesaid, shall by the executor or executors, or administrator or administrators of the same, be represented as insolvent, and a commission of insolvency shall thereupon issue; in all such cases attachments made as aforesaid shall have no force or efficacy after the death of the original defendant or defendants in the action.

Proviso.

Executors, &c. entitled to a continuance.

SECT. 3. *And be it further enacted,* That all executors and administrators of any estate, shall, upon motion to the Court where any suit is or may be depending against them in their said capacity, be entitled to continuance of the same until the next term of the said Court.

[This Act passed *March* 17, 1784.]

An

An ACT for the more safe keeping the Registry of Deeds and Conveyances of Land, and for appointing the Time and Manner of choosing Registers.

Additional Act, June 18, 1791.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That there shall be chosen in each county within this Commonwealth, by the written votes of such persons as are by the Constitution qualified to vote for Representatives in the several towns, at their respective annual town meetings in the month of *March*, one thousand seven hundred and eighty-six, some discreet, suitable person, having a freehold within the same county, of the annual income of *Ten Pounds* at the least; the votes to be counted and sorted in the town meeting by such persons as shall be chosen to count and sort the votes for that meeting; the names of the persons voted for, and the number of votes each person had, shall be recorded by the Town Clerk, in the town book, and an attested copy of such record shall be transmitted under seal to the next Court of General Sessions of the Peace, to be held within and for the county, on the first day of the Court's sitting there, to be opened and compared with the like returns from the several towns in such county. And the person having the majority of the said voters, and accepting of the said office, after being sworn to the faithful discharge of the trust before the Supreme Judicial Court, or Court of Common Pleas, Court of Sessions, or two Justices of the Peace within the county *quorum unus*; and giving bond to the Clerk of the Court of General Sessions of the Peace in the said county, with two sureties in the sum of *Five Hundred Pounds*, for the faithful discharge of his trust, shall be and continue in the said office five years, and until some other person shall be chosen and qualified in like manner in his stead, unless sooner removed or displaced by order of the Court of General Sessions of the Peace in such county, for misconduct in the discharge of his duty; and the person so chosen and qualified as aforesaid, shall reside and keep his office daily open in the shire town of the county, and therein keep the books, records, files, and papers to the said office belonging.

A Register to be chosen in each county in March, 1786. Appendix.

To be sworn and to give bond.

SECT. 2. *And be it further enacted,* That upon the death, resignation, or removal of any Register of Deeds, two or more Justices of the Peace *quorum unus*, living in or near the shire town of the same county, shall issue their warrants directed to the Selectmen of the several towns within such county, ordering them forthwith to convene the inhabitants of their respective towns, qualified as the Constitution provides, to vote for Representatives, and proceed to the choice of some meet person qualified as aforesaid to fill up the vacancy; and the said Justices shall make their warrants returnable to themselves at a certain day,

Mode of choosing in case of a vacancy.

day, as soon as conveniently may be, ordering the Selectmen to seal up and transmit a transcript of the record of the number of votes and person or persons voted for in their respective towns as before directed, together with the warrants; and the aboyesaid Justices shall at the same time give out their notifications to the other Justices of such county of their proceedings therein, notifying them to meet upon the day appointed for the return of the said warrants, at some certain place in the shire town; and the major part of the Justices of such county, who shall meet at the time and place assigned as aforesaid, shall open and compare the returns made as before directed, and the person having the majority of votes after being sworn, and giving bonds as aforesaid, shall be the Register of Deeds for such county, until the time appointed by this Act for the election of Registers of Deeds throughout the Commonwealth, unless sooner removed by the Court of General Sessions of the Peace of the same county, for misconduct in the discharge of his duty.

Same mode of choosing to be adopted in case of a vacancy before March, 1786.

SECT. 3. *And be it further enacted by the authority aforesaid*, That upon any second or subsequent removal of any Register of Deeds, for either of the causes aforesaid, or in case any vacancy shall happen in the office of Register of Deeds, in any county within this Commonwealth, before the month of *March*, one thousand seven hundred and eighty-six, the same mode of procedure as is herein before provided in case of the death, resignation, or removal of any Register of Deeds, shall be constantly observed in order for a new choice, from time to time, until some discreet and meet person, qualified as aforesaid, shall be chosen to the said office by the majority of the votes returned, in which case the person so chosen, after being sworn and obliged as aforesaid, shall be Register of Deeds for such county, until some other shall be chosen.

Clerk of the Common Pleas to act as Register in the time of a vacancy.

SECT. 4. *And be it further enacted*, That upon a vacancy in the office of Register of Deeds in any county, the Clerk of the Court of Common Pleas of such county being first sworn before two Justices of the Peace, *quorum unus*, for the faithful discharge of the trust, shall take into his custody the several books wherein the deeds and conveyances of land are recorded, together with the deeds and other papers to the said office belonging. And the said Clerk shall receive all deeds and other papers brought to be recorded during such vacancy, and he shall note thereon the time of their being received, and the record shall bear date accordingly, for which he shall be allowed *Six Pence* for each deed or paper, and no more; and such Clerk is also empowered, during such vacancy, to make out attested copies of any such deeds and other papers and records to him committed as aforesaid, which copies shall be valid to all intents and purposes, as though the same had been made out by

by any Regiſter choſen, qualified, ſworn and obliged as aforeſaid, for which copies the ſaid Clerk ſhall be allowed the ſame fees as is or may be provided for Regiſters in ſimilar caſes. And upon the appointment of a Regiſter as aforeſaid, he ſhall deliver up the ſaid books, deeds and papers, into his hands.

Regiſters to be choſen every 5 years ſucceſſively.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the qualified voters as aforeſaid in each reſpective town within this Commonwealth, at their annual meeting in *March*, ſeventeen hundred and ninety-one, and every five years from thence ſucceſſively following, forever, at their ſeveral town meetings in *March*, ſhall be, and hereby are empowered and required, to proceed to chooſe a Regiſter of Deeds for each county reſpectively within this Commonwealth, qualified as in this Act is directed, the manner and determination of the choice, initiation into office, and the duties and obligations he ſhall be under while in office, to be the ſame as in this Act is before expreſſed.

If no perſon has a majority of all the votes the Court of Seſſions to call another meeting. How removed, Act, Feb. 16, 1786.

SECT. 6. *And be it further enacted*, That if upon comparing the votes that may be collected in *March*, one thouſand ſeven hundred and eighty-ſix, or in the month of *March* at any period five years afterwards, no perſon ſhall be choſe by a majority of the whole votes returned, the Court of Seſſions ſhall iſſue their warrants to the Selectmen of the ſeveral towns, to call a meeting of their reſpective towns to vote a ſecond time for the choice of a Regiſter, and make their warrants returnable at the then next Court of General Seſſions of the Peace to be held in the ſame county, and ſo *toties quoties*, until ſome one perſon ſhall be elected by the majority voting. And to the end there may not be too great a riſk of fire by keeping more public records, papers and files in one houſe or under one roof than is neceſſary:

Clerk of Common Pleas or Supreme Judicial Court not to be a Regiſter.

SECT. 7. *Be it further enacted*, That no Clerk of any Court of Common Pleas, or of the Supreme Judicial Court, ſhall at the ſame time be the Regiſter of Deeds for any county.

[This Act paſſed *March* 17, 1784.]

An ACT for the appointing and empowering Commiſſioners, on the Part of this Commonwealth, in Conjunction with ſuch as are or may be appointed by the State of *New-York*, to aſcertain the Boundary Line between the Commonwealth and State aforeſaid, Eaſtward of *Hudſon's-River*.

[This Act paſſed *March* 18, 1784. Repealed *June* 4, 1784.]

An ACT for preventing in Part the Operation of an Act made in the Year of our Lord One thouſand ſeven hundred and ſeventy, entitled, "An Act for the repealing the ſeveral Laws now in force, which relate to the Limitation of perſonal Actions, and for the Limitation of perſonal Actions for the future, and avoiding Suits at Law."

[This Act paſſed *March* 19, 1784.]

An ACT in Addition to, and for repealing certain Parts of an Act, made and paſſed the third Day of *July*, A. D. One thouſand ſeven hundred and eighty-two, entitled, "An Act to remove the Obſtructions and open Paſſage-Ways for the Fiſh called Alewives, Shad, and other Fiſh, up *Neponſet-River*, and for making more effectual Proviſion for the paſſing of the ſaid Fiſh."

[This Act paſſed *March* 19, 1784.]

An ACT to incorporate a new Plantation called *Aſhuelet Equivalent*, in the County of *Berkſhire*, into a Town by the Name of *Dalton*.

[This Act paſſed *March* 20, 1784.]

An ACT to unite the firſt and third Precincts in the Town of *Plymouth*, by the Name of *The Firſt Precinct*.

[This Act paſſed *March* 20, 1784.]

An ACT to enable the Inhabitants of the ſeveral Towns and Plantations within this Commonwealth, to aſcertain from Time to Time the Amount of Monies received by their reſpective Collectors of public Taxes, and what Payments they have made to the Treaſurer of the Commonwealth.

March 16, 1786.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the ſeveral collectors of public taxes ſhall, once every

every two months at leaſt, exhibit to the Selectmen, and where there are no Selectmen, to the Aſſeſſors of the reſpective towns or plantations to which they belong, a juſt and true account of all the monies they have received on the ſeveral taxes committed to them, and produce the Treaſurer's receipts for all the monies by them reſpectively paid into the treaſury. Collectors to exhibit to the ſelectmen, once in two months, an account of monies received, &c.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That if any collector of public taxes ſhall neglect to exhibit his accounts in manner aforeſaid, he ſhall forfeit and pay for every neglect, the ſum of two and a half per cent. on the ſum or ſums committed to him to collect, to the uſe of the town or plantation of which he is or has been a collector, to be recovered by ſuch town or plantation in any court of law proper to try the ſame. Collectors neglecting, Penalty.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That whenever the time fixed by law for collecting any tax ſhall have expired, the Treaſurer of this Commonwealth ſhall, and he is hereby authorized and empowered, at the requeſt of the ſelectmen or aſſeſſors of any town or plantation, to iſſue his execution againſt any collector or collectors of their reſpective towns or plantations, without any further order from the General Court; any Law or Reſolve to the contrary notwithſtanding. When the time fixed by law for collecting any tax is expired, Treaſurer to iſſue execution.

[This Act paſſed *March* 23, 1784.]

An ACT to incorporate an Academy in the Town of *Leiceſter*, by the Name of *Leiceſter Academy*.

[This Act paſſed *March* 23, 1784.]

An ACT for naturalizing *Thomas Hopkins*.

[This Act paſſed *March* 23, 1784.]

An ACT for repealing two Laws of this State, and for aſſerting the Right of this free and ſovereign Commonwealth, to expel ſuch Aliens as may be dangerous to the Peace and good Order of Government.

Addit. Act, Nov. 10, 1784.

WHEREAS it is neceſſarily incident to every free, ſovereign and independent State, to hold the right of expelling from the dominions thereof, all aliens who profeſs diſpoſitions, or hold principles incompatible with the ſafety or ſovereignty of the State: And whereas all thoſe perſons who have ſince the fifth day of *October*, in the year one thouſand Preamble.

seven hundred and seventy-four, and before the making the present form of government of this Commonwealth, gone off to, and taken the protection of the government, or fleet, or army of *Great-Britain*, are considered, and justly held to be aliens to this Commonwealth: And whereas those of them who are named and mentioned in an Act of this State, passed in the year one thousand seven hundred and seventy-nine, entitled, "An Act to confiscate the estates of certain notorious conspirators against the government and liberties of the inhabitants of the late Province, now State of *Massachusetts-Bay*;" and all others of them who have borne arms in the late war, against this or either of the United States, or against the allies of the said States, or have lent money to the government of *Great-Britain* to carry on the late war, are justly deemed to hold principles, and possess dispositions, incompatible with the safety of the Commonwealth, and therefore ought to be excluded from this Commonwealth: And it being evident that an indiscriminate admission of the other descriptions of those unhappy people, at this period, might be attended with disagreeable and dangerous consequences; but the laws made for their exclusion being not calculated to produce those measures which are suitable to a state of peace and tranquillity:

Two acts repealed.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That an act made and passed in the year one thousand seven hundred and seventy-eight, entitled, "An Act to prevent the return to this State of certain persons therein named, and others who have left this State, or either of the United States, and joined the enemies thereof;" and also another Act passed in the year one thousand seven hundred and eighty-three, entitled, "An Act to carry into execution an Act made in the year one thousand seven hundred and seventy-eight, entitled, "An Act to prevent the return to this State of certain persons therein named, and others who have left this State, or either of the United States, and joined the enemies thereof," be, and they both are hereby repealed.

Persons named in a certain act, or who have borne arms, &c. presuming to return to this State.

SECT. 2. *And be it enacted*, That if any of the persons aforesaid who have left this State, and gone off to, and taken the protection of the government, fleet, or army of *Great-Britain*, and are named in the Act aforesaid, entitled, "An Act to confiscate the estates of certain notorious conspirators against the government and liberties of the inhabitants of the late Province, now State of *Massachusetts-Bay*," or have borne arms, or been joined to the said fleet, army, or to any volunteer corps of the king of *Great-Britain*, shall presume to return to this State to reside therein, it shall be the duty of every Justice of the Peace to give notice thereof to the Governor, and if such person shall not immediately upon the Governor's giving order

der therefor, depart the State, it shall be the duty of every Justice of the Peace to whom complaint shall be made thereof, to apprehend such person, and him commit to the common gaol of the county where he may be, to be sent off by the order of the Governor with advice of Council. Duty of Justices in this case.

SECT. 3. *And be it enacted*, That no one of any other description of the said absentees shall be allowed to reside in this State, until such person shall obtain a license therefor from the Governor with advice of Council; and if any one of the said persons shall presume to reside within this State without such license, he shall be treated in the same manner as is provided by this Act, respecting those who have borne arms against these States. *Provided also*, That no license so given by the Governor with advice of Council, shall have any force after the end of the next session of the General Court after the same license shall be granted; and that the person who shall obtain the same, unless an act of naturalization shall be passed in his favour, or the said license shall be approved at the said session of the General Court, shall be treated in the same manner as if the said license had not been obtained. No absentee to reside in this State without a license from the Governor. Proviso.

And whereas by the sixth article of the treaty, lately made between the United States and the King of *Great-Britain*, it is provided that no further confiscations shall be made: Preamble.

SECT. 4. *Be it therefore enacted by the authority aforesaid*, That the lands and buildings which any of the persons aforementioned held in fee simple, or by a lesser estate, on the nineteenth day of *April*, one thousand seven hundred and seventy-five, and which have not by the aforesaid Act, entitled, "An Act to confiscate the estates of certain notorious conspirators against the government and liberties of the inhabitants of the late Province, now State of *Massachusetts-Bay*," or by judgment had on due process of law on such estates, been confiscated, nor have been pledged by government for money borrowed, or sold by agents according to the laws of the State, for the payment of debts due from the absentees, or have been made liable to pay an annual charge for the support of any poor person, shall be delivered up to the persons who respectively owned such lands or buildings last before the nineteenth of *April*, 1775, or to any persons claiming under them respectively, *Provided* such claimers are not included in the Act aforesaid, made in the year one thousand seven hundred and seventy-eight, who shall have the privilege of disposing of the same, at any time within the space of three years next coming; and any deed or other conveyance made thereof, to any citizen of this or either of the United States, shall be held good and valid in law, to convey the same, to all intents and purposes, as fully and amply as if such grantor was a free citizen of this Commonwealth; any Law of this Commonwealth to the contrary notwithstanding. Lands held on the 19th April, 1775, which have not been confiscated, &c. to be delivered up. Proviso. Deeds made thereof to be held valid in law.

[This Act passed *March* 24, 1784.]

An

An ACT for the appointing and empowering Commiſſioners, on the Part of this Commonwealth, in Conjunction with ſuch as are or may be appointed by the State of *New-York*, to aſcertain the Boundary Line between the Commonwealth and State aforeſaid, Eaſtward of *Hudſon's-River*.

[This Act paſſed *June* 4, 1784.]

An ACT for the Diſtribution of inſolvent Eſtates.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That when the eſtate of any perſon deceaſed ſhall be inſolvent or inſufficient to pay all juſt debts which the deceaſed owed, the ſame ſhall be diſtributed to and among all the creditors, in proportion to the ſums to them reſpectively due and owing, ſaving that debts due for all rates and taxes, and debts due to the Commonwealth, and for the laſt ſickneſs and neceſſary funeral expenſes of the deceaſed, are to be firſt paid. And the executor or adminiſtrator appointed to any ſuch inſolvent eſtate before payment to any be made (except as aforeſaid) ſhall repreſent the condition and circumſtances thereof unto the Judge of Probate. And the ſaid Judge ſhall nominate and appoint two or more fit perſons to be commiſſioners, with full power to receive and examine all claims of the ſeveral creditors; and ſuch commiſſioners ſhall cauſe the times and places of their meeting, to attend the creditors for receiving and examining their claims, to be made known, by cauſing notifications thereof to be poſted up in ſome public place, in the ſhire town of the county where ſuch deceaſed perſon laſt dwelt, and of the two next counties, or by cauſing an advertiſement thereof to be printed in ſuch public newſpaper or papers as the Judge of Probate ſhall direct; and ſix months and ſuch further time not exceeding eighteen months (as the circumſtances of any eſtate may require) ſhall be allowed by the ſaid Judge to the creditors for bringing in and proving their claims; at the end of which limited time, ſuch commiſſioners ſhall make their report, and preſent upon oath a liſt of all the claims that ſhall have been laid before them, with the ſums they ſhall allow on each claim unto the ſaid Judge; and the Judge ſhall order them meet recompenſe out of the deceaſed's eſtate for their care and labour in examining the claims; and the debts due for all rates and taxes, and debts due to the Commonwealth, debts incurred for the laſt ſickneſs of the deceaſed, and neceſſary funeral expenſes as afore provided, being firſt deducted, ſhall order the reſidue and remainder of the eſtate both real and perſonal (the real eſtate being ſold according to law) to be paid and diſtribu-

Inſolvent eſtates, how to be diſtributed, Act, March 4, 1790. Act, June 20, 1794.

Judge of Probate to appoint commiſſioners.

ted

ted to and among the creditors who shall have made out their claims with the commissioners as aforesaid, in proportion to the sums unto them respectively due and owing, saving unto the widow (if any be) her right of dower in the housing and lands of the deceased, which dower (unless the reversion shall be sold by the executor or administrator, and distributed with the other estate, which the Judge may order if he see fit, upon application therefor) at the expiration of her term, shall also be distributed among the creditors aforesaid in like proportion. *Provided*, That notwithstanding the report of any commissioners, any creditor whose claim is wholly or in part rejected, may have the same determined at the common law, in case he shall give notice thereof in writing at the Probate office, within twenty days after such report shall be made, and bring and prosecute his action as soon as may be; and in case the executor or administrator shall be dissatisfied with any creditor's claim allowed by the commissioners, and shall give notice thereof at the Probate office, and also to the creditor, within twenty days as aforesaid, such claim shall by the Judge of Probate be struck out of the commissioners' report, unless such creditor shall commence and prosecute at the common law his claim as aforesaid as speedily as the same can be done, or unless the creditor and the executor or administrator shall agree before the Judge to submit the same to reference; in which case the determination of the referees shall be final; and when a claim shall be disputed in the course of the common law as aforesaid, execution shall not issue as in common cases, but the judgment of the Court respecting the same, shall be the amount of the claim, and added to or deducted from the commissioners' report, as the case may require. And no action brought against any executor or administrator after the estate shall be represented insolvent, shall be sustained, except for debts due to the Commonwealth, debts due for all rates or taxes, for the deceased's last sickness and funeral charges, unless the executor or administrator having objection to the claim upon which such action shall be brought, shall consent to have the same settled by course of law, in which case the judgment of the Court shall determine the said claim, and be reported by the commissioners as such. And all actions brought against any executor or administrator before the estate is represented insolvent, shall be continued until it shall appear whether the said estate is insolvent or not; and if found insolvent, the process shall be conducted as above provided. And if any creditor shall not make out his claim with the commissioners within the time of their commission, or at the common law, or before referees, in the manner this Act provides, he shall be forever barred of his debt; unless such creditor shall find some other estate of the deceased, not inventoried or accounted for by the executor or administrator before distribution.

Proviso.

No action to be sustained, except for debts due to the Commonwealth.

[This Act passed *June* 15, 1784.]

An ACT for enabling the first Precinct belonging to, and lying within the Town of *Cambridge*, to raise Money for discharging the Debts incurred in carrying on the late War, and for confirming the Grants and Assessments that have been already made for that Purpose.

[This Act passed *June* 21, 1784.]

To be drawn. Act, Feb. 26, 1794.

An ACT regulating the Appointment and Services of Grand Jurors.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That thirty days at the least before the sitting of the Supreme Judicial Court in each county within this Commonwealth, the Clerk of the same Court shall issue his warrants, directed to the Constables of the several towns within the county or counties for which the said Court is to be holden, or to so many of the said towns as the Court shall order, requiring the Constables respectively to assemble the freeholders and other inhabitants in the said towns, qualified by law to vote in the choice of Representatives, to elect and choose by ballot, so many good and lawful men of their town, of like qualification, and of good moral character, as such warrant shall direct, to serve on the Grand Jury at the same Court; and the Constables shall summon the persons so chosen, four days at the least before the sitting of the Court, to attend accordingly at the day and place where the Court is to be holden, and to appear at ten of the clock in the forenoon upon the same day; and the Constables shall make timely return of the warrants, with their doings therein, to the same Court. And when the Court is opened, the Grand Jury shall be empannelled and sworn as follows:

Clerk of the Supreme Judicial Court to issue his warrant to the constables 30 days before the sitting of the Court.

Constables to summon the persons chosen.

Grand Jury to be sworn.

Foreman's Oath.

Foreman's oath.

"YOU solemnly swear, that as foreman of this inquest for the body of this county of *S.* you shall diligently inquire, and a true presentment make of all such matters and things as shall be given you in charge; the Commonwealth's counsel, your fellows and your own, you shall keep secret; you shall present no man for envy, hatred, or malice; neither shall you leave any man unpresented, for love, fear, favour, affection or hope of reward: but you shall present things truly as they come to your knowledge, according to the best of your understanding. *So help you GOD.*"

The other Juror's Oath.

The other Juror's oath.

"THE same oath which your foreman hath taken on his part, you, and each of you, on your behalf, shall well and truly observe and keep. *So help you GOD.*"

And

And if any Conſtable ſhall neglect to aſſemble the inhabitants of his town, qualified as aforeſaid, when he ſhall have received ſuch warrant, or ſhall neglect to ſummon the perſons choſen in purſuance thereof, or ſhall not make due return of the ſame, with his doings therein, he ſhall pay ſuch fine as the Court in their diſcretion ſhall impoſe, not exceeding the ſum of *Twenty Pounds*. And if any town being duly notified as above provided, ſhall neglect to chooſe as many good and lawful men able to attend, as are directed in and by ſuch warrant, ſuch town ſhall be amercied in ſuch ſum as the Court ſhall order, not exceeding the ſum of *Forty Pounds*. And if any perſon choſen and notified to attend as aforeſaid, ſhall unneceſſarily fail of attending, he ſhall (if he is an inhabitant of *Boſton*, *Salem* or *Newbury-Port*) pay a fine of *Five Pounds*, and otherwiſe a fine of *Forty Shillings*, to be divided equally amongſt the Grand Jurors who ſhall attend their duty at the ſame Court.

Conſtables neglecting their duty.

Penalty.

Towns neglecting to chooſe men, to be amercied by the Court.

Perſons choſen failing to attend,

Penalty.

SECT. 2. *And it is further enacted by the authority aforeſaid*, That the Clerk of the Court of General Seſſions of the Peace, ſhall, forty days at the leaſt before the firſt day of *March* annually, make out his warrant to the Conſtables of the ſeveral towns in the county, or to ſo many of them as the Court ſhall order, requiring them ſeverally to aſſemble the freeholders and inhabitants of their reſpective towns, qualified to vote for a Repreſentative, to chooſe by ballot, one or more good and lawful man or men in each town, as the Court ſhall direct, of like qualification, and of good moral character, to appear at the Court of General Seſſions of the Peace, to be holden within the ſaid county, next after the firſt day of *March*, and there to ſerve on the Grand Jury at every Court of General Seſſions of the Peace, throughout the whole year, until another Grand Jury ſhall be choſen, empannelled, and ſworn in their room, and the Conſtables ſhall notify the perſons ſo choſen, four days before the ſitting of the Court. And it ſhall be the buſineſs of ſuch Grand Jury to preſent all crimes, offences and breaches of law cognizable by the ſaid Court, and they ſhall have the ſame oath adminiſtered to them, as is in and by this Act provided for the Grand Jury ſerving at the Supreme Judicial Court.

Clerk of the Court of General Seſſions of the Peace to iſſue his warrant to the conſtables 40 days before the firſt of March, annually.

Conſtables to notify the perſons choſen.

Grand Jury to have the ſame oath adminiſtered to them as thoſe ſerving at the Supreme Judicial Court.

And if any Conſtable ſhall neglect to aſſemble the inhabitants of his town, when he ſhall have received ſuch warrant, or ſhall neglect to ſummon ſuch perſon as ſhall be choſen in purſuance of ſuch warrant, or ſhall not make a timely return of the ſame, with his doings therein, he ſhall pay ſuch fine as the Court ſhall order, not exceeding the ſum of *Ten Pounds*. And if any town ſhall, after being duly notified, neglect to chooſe ſuch Grand Juror or Grand Jurors, ſuch town ſhall be amercied to the uſe of the county, in a ſum not exceeding *Twenty Pounds*, at the diſcretion of the Court. And if any perſon choſen and ſummoned to attend as aforeſaid, ſhall unneceſſarily fail of attending

Penalties for neglect in conſtables, towns, or perſons choſen to ſerve as Grand Jurors

ing at the time and place appointed therefor, he shall (if he is an inhabitant of *Boston*, *Salem* or *Newbury-Port*) pay a fine of *Five Pounds*, otherwise a fine of *Forty Shillings*, to be divided amongst the Grand Jurors who shall attend their duty.

[This Act passed *June* 21, 1784.]

An ACT for granting a Lottery for the Purpose of widening and repairing the Great-Bridge over *Charles-River*, in the Town of *Watertown*.

[This Act passed *June* 22, 1784.]

An ACT for confirming a Grant of a certain Tract of Land called *Machias*, in the County of *Lincoln*, and for incorporating the said Tract of Land, and the Inhabitants thereof, into a Town by the Name of *Machias*.

[This Act passed *June* 23, 1784.]

An ACT for regulating the Choice and Services of Petit Jurors.

Towns to proceed in the appointment of Jurors, as heretofore practised.

Clerks of the respective courts to issue *venire facias*.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That the towns in this Commonwealth shall, until the first day of *January*, seventeen hundred and eighty-five, proceed in the appointment of Jurors, as hath been heretofore practised in this government, and that forever thereafter the Clerks of the respective courts in this Commonwealth, shall issue their *venire facias* for Jurors to serve at their respective courts, from their offices, thirty days at the least before the return day of the same, directed to the Constables of each town in the county, or so many of them as the Court shall order, and the respective Constables, upon receipt thereof, shall notify the freeholders and inhabitants in their towns, qualified to vote in the election of Representatives, to assemble and be present at the appointment of the Jurors called for, and to be appointed in manner by this Act provided.

SECT. 2. *And it is further enacted*, That the Selectmen of each town in this Commonwealth shall provide, and from time to time cause to be kept in their respective towns, two boxes, and shall, once at least in every three years, lay before their town a list of such persons in their respective towns as are of good moral character and qualified as the Constitution directs,

to

to vote in the choice of Repreſentatives, and not exempted by this Act, and ſuch as the Selectmen ſhall judge well qualified to ſerve as Jurors, and the town ſhall ſelect out of the liſt one quarter part of the number laid before them, and ſuch as they ſhall judge beſt qualified to ſerve at the Supreme Judicial Court, and have their names written by the Town-Clerk on ſeparate pieces of paper and put into one of the boxes, to be liable to be drawn out as is herein hereafter directed, to ſerve on the Petit Jury, at the Supreme Judicial Court, and the town ſhall direct that ſuch of the remainder of ſuch liſt as the town ſhall think proper, ſhall have their names written on ſeparate pieces of paper and put into the other box, to be drawn, as is herein hereafter directed, to ſerve on the Petit Jury at the Courts of Common Pleas and General Seſſions of the Peace; and if any perſon whoſe name ſhall be put into either box, ſhall be convicted of any ſcandalous crime, or be guilty of any groſs immorality, his name ſhall be withdrawn from the box by the Selectmen of his town. *Provided nevertheleſs*, If he can obtain a vote of the town to have his name reſtored to the box again, it ſhall be reſtored, and ſuch boxes ſhall be locked by the Selectmen, and delivered to the Town-Clerks.

Jurors how to be choſen.

Any perſon whoſe name ſhall be put into either box, being convicted of any ſcandalous crime, his name to be withdrawn.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That if the Selectmen of any or either of the towns in this Commonwealth, for the time being, ſhall neglect or refuſe to prepare and lay before their reſpective towns a liſt of Jurors, as is required in and by this Act, every Selectman ſo neglecting his duty, ſhall forfeit and pay the ſum of *Three Pounds*, for the uſe of the county in which he or they dwelt at the time of ſuch neglect, to be recovered by action or information, brought by the Treaſurer of ſuch county, before any court proper to try the ſame, provided that the action be brought within twelve months after the offence ſhall be committed.

Selectmen neglecting their duty.

Penalty.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That when any *venire facias* ſhall be iſſued as by this Act is provided, and the inhabitants of any town ſhall be aſſembled for that purpoſe, the Town-Clerk, or in his abſence one of the Selectmen, ſhall carry into the meeting the box wherein the names of thoſe perſons are put who are deſigned to ſerve at the Court from whence the *venire facias* iſſued, which ſhall be unlocked in the meeting by the major part of the Selectmen, who are to be preſent (and the Conſtable who ſhall warn the meeting ſhall particularly notify them, and the Town-Clerk, for that purpoſe) and the Town-Clerk, or in his abſence one of the Selectmen, ſhall draw out ſo many tickets as there are Jurymen required by the *venire*, who ſhall be the perſons that ſhall be returned to ſerve as Jurors; ſaving that if any whoſe names are ſo drawn, are ſick, or otherwiſe unable to attend at that time, in the judgment of the town, their names ſhall be returned into

Duty of town-clerk or ſelectmen, when any *venire facias* ſhall be iſſued.

to the box, and others be drawn in their ſtead; and to the intent that the ſame perſons may not be obliged to ſerve too often, the Clerk or Selectmen who ſhall draw the ticket or name of any perſon returned to ſerve as aforeſaid, ſhall enter upon the back thereof the date of the draft and return the ſame into the box again, and no perſon ſhall be obliged to ſerve as Juror oftener than once in three years.

The meeting for the appointment of Petit Jurors, to be ſix days before the ſitting of the court.

SECT. 5. *And be it further enacted*, That the meeting for the appointment of Petit Jurors, ſhall be ſix days at the leaſt before the day of the ſitting of the Court, to which the *venire* is returnable; and the Conſtables ſhall notify the perſons thus appointed of the ſame, four days at the leaſt before the ſitting of the court wherein they are to ſerve, either by reading the *venire*, and minute of the appointment thereon, to the perſon appointed, or by leaving at their uſual abode, a written notification of their being drawn as aforeſaid, and of the time and place of the Court's ſitting, at which they are to attend. And when the Selectmen ſhall at any time lay a liſt of the perſons liable and capable to ſerve before their town, they ſhall carefully transfer from the back of each old ticket, the minute thereon made, to the new one whereon the ſame name is written, that it may be certainly known, whether ſuch perſon ſhall have been drawn within three years.

Proviſo.

Provided always, That if any perſon ſhall be drawn and returned, and ſhall not appear, or appearing ſhall be excuſed by the Court, the minute on his ticket ſhall not excuſe him from being returned again when he ſhall be drawn, although it ſhall happen within three years.

When there ſhall be a deficiency of Grand or Petit Jurors, Courts ſhall cauſe writs of *venire facias* to be iſſued.

SECT. 6. *And it is further enacted by the authority aforeſaid*, That when there ſhall upon any occaſion be a deficiency either of Grand or Petit Jurors, by means whereof either the Supreme Judicial Court, or the Court of Common Pleas, or General Seſſions of the Peace, cannot proceed conveniently in the buſineſs of the county, the Courts ſhall cauſe writs of *venire facias* to be forthwith iſſued, and directed to the Conſtables of any town or towns in the county, for the appointment and return of ſo many good and lawful men to ſerve on either Jury at the ſaid Court, as may be neceſſary, and the number required in ſuch *venire*, ſhall be appointed as the law directs, and notified to attend immediately. And when from challenges or otherwiſe, there ſhall not be a Jury to determine any civil or criminal cauſe, the Sheriff or his Deputy, ſhall, by order of the court where ſuch defect of Jurors ſhall happen, return Jurymen *de talibus circumſtantibus*, ſufficient to complete the pannel; and when the Sheriff or his Deputy is intereſted or related, Jurors may be returned by the Coroner, or ſuch other diſintereſted perſons as the Court ſhall appoint. *Provided*, There be ſeven at the leaſt, of the Jurors returned by the *venire*.

When from challenges, &c. there ſhall not be a Jury to determine a cauſe, Sheriff or Coroner ſhall return Jurymen *de talibus circumſtantibus*.

SECT.

SECT. 7. *And it is further enacted*, That if any Conſtable to whom ſuch *venire facias* ſhall be directed and come, ſhall neglect to do his duty, either in aſſembling the town, notifying the Selectmen and Town Clerk, or in notifying the Juror appointed, or in returning the *venire facias*, he ſhall pay ſuch fine as the Court in their diſcretion ſhall order, not exceeding the ſum of *Ten Pounds*; and if any Selectman or Town Clerk, ſhall, after due notification by the Conſtable, neglect to attend and perform his duty herein preſcribed, by means whereof the Jurors called for from his town ſhall not be returned, he ſhall forfeit and pay a fine at the diſcretion of the Court, not exceeding the ſum of *Five Pounds*; and if any perſon appointed and returned to ſerve on the Petit Jury, ſhall unneceſſarily fail of attending, he ſhall, if he is an inhabitant of *Boſton*, *Salem* or *Newbury-Port*, pay a fine of *Five Pounds*, and if an inhabitant of any other town, he ſhall pay a fine of *Forty Shillings*; which fines ſhall be equally divided amongſt the Jurors who attend their duty.

Penalty for neglect of duty in Conſtables, Selectmen, Town-Clerks, or perſons returned to ſerve on the Petit Jury.

SECT. 8. *And it is further enacted by the authority aforeſaid*, That the Juſtices of the reſpective courts aforeſaid, ſhall, upon motion from either party in ſuit, put any Juror upon oath, whether he is any way related to either party, or hath directly or indirectly formed or given any opinion, or is ſenſible of any prejudice in the cauſe; and if it ſhall then appear to the Court that any Juror does not ſtand indifferent in the cauſe, he ſhall be ſet aſide from the trial of that cauſe and another called in his ſtead. And the Sheriff of each county, as ſoon as he ſhall receive the *venire* for Jurors from the Clerk of either court, ſhall forward them without any delay, to the Conſtables of the ſeveral towns whereunto they are directed.

Juſtices of the reſpective courts, upon motion of either party, ſhall put any Jury upon oath.

SECT. 9. *And it is further enacted*, That in all cauſes relating to the realty, either party may have a Jury to view the place in queſtion, if the Court ſhall be of opinion that ſuch view is neceſſary to the juſtice of the trial. *Provided*, The party moving therefor ſhall advance ſuch reaſonable ſum to the Jury as the Court ſhall order to be taxed againſt the adverſe party, if he who advances the ſame ſhall prevail in the ſuit. *Provided*, That no ſettled miniſter, juſtice of the peace qualified to act in his office, practiſing attorney, ſheriff, deputy-ſheriff, coroner, conſtable, warden, regiſter of a court of probate, regiſter of deeds, clerk of a common law court, phyſician, conſtant ferryman or miller, ſhall be liable to be put into the box.

In cauſes relating to the realty, either party may have a Jury to view the place in queſtion.

Proviſo.

[This Act paſſed *June* 26, 1784.]

An

An ACT directing the Proceedings againſt forcible Entry and Detainer.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That two Juſtices of the Peace, *quorum unus*, ſhall have authority to inquire by a Jury, as is herein hereafter directed, as well againſt thoſe who make unlawful and forcible entry into lands or tenements, and with a ſtrong hand detain the ſame, as againſt thoſe who, having a lawful and peaceable entry into lands or tenements, unlawfully and by force hold the ſame; and if it be found upon ſuch inquiry, that an unlawful and forcible entry hath been made, and that the ſame lands or tenements are held and detained with force and ſtrong hand, or that the ſame after a lawful entry are held unlawfully and with force and a ſtrong hand; then that ſuch Juſtices ſhall cauſe the party complaining to have reſtitution thereof.

Two Juſtices, *quorum unus*, to inquire into forcible entry, &c.

SECT. 2. *And be it further enacted*, That when complaint ſhall be formally made in writing to any two Juſtices of the Peace, *quorum unus*, of any unlawful and forcible entry into any lands or tenements, and detainer as aforeſaid, or of any unlawful and forcible detainer of the ſame after a peaceable entry, they ſhall make out their warrant under their hands and ſeal, directed to the Sheriff of the ſame county, commanding him in the behalf of the Commonwealth, to cauſe to come before them twelve good and lawful men of the ſame county, each one of whom having freehold lands or tenements of the yearly value of *Forty Shillings*, and they ſhall be empannelled to inquire into the forcible entry or forcible detainer complained of, which warrant ſhall be in the form following, *viz.*

Upon complaint made of forcible entry, to iſſue their warrants.

COMMONWEALTH OF MASSACHUSETTS.

(Seal.) S——, ſſ.

To the Sheriff of the county of S——,

GREETING.

Form.

WHEREAS complaint is made to us the ſubſcribers, two of the Juſtices of the Peace for and within the county of *S* *quorum unus*, by *A. B.* of *D.* in the ſame county, gentleman, that *E. F.* of yeoman, upon the day of at *D.* aforeſaid, with force and arms, and with a ſtrong hand, did unlawfully and forcibly enter into and upon a tract of land of him, the ſaid *A. B.* in *D.* aforeſaid, containing acres, bounded as follows, *viz.* (or into the meſſuage or tenement of him, the ſaid *A. B.* as the caſe may be) and him, the ſaid *A. B.* with force and a ſtrong hand as aforeſaid, did expel and unlawfully put out of the poſſeſſion of the ſame, [*Or if it is a forcible detainer only, then the entry ſhall be deſcribed and the detainer inſerted as follows*:] and him, the ſaid *A. B.* does unlawfully, unjuſtly, and

and with a ſtrong hand, deforce and ſtill keep out of the poſſeſſion of the ſame. You are therefore commanded, in behalf of the ſaid Commonwealth, to cauſe to come before us upon the day of at in the ſaid county, twelve good and lawful men of your county, each one of whom having a freehold of the yearly value of *Forty Shillings*, to be empannelled and ſworn to inquire into the forcible entry and detainer (or the detainer) aforedeſcribed. Given under our hands and ſeals the day of in the Year of our Lord

R. S.
N. O. } Juſtices of the Peace, *quorum unus.*

And the ſaid Juſtices ſhall make out their ſummons to the party complained againſt, in form following, *viz.* Juſtices to make out their ſummons.

(Seal.) COMMONWEALTH OF MASSACHUSETTS.
S——, ff.
To the Sheriff of the county of S——,
GREETING.

WE command you, that you ſummon *E. F.* of to appear before the ſubſcribers, two of our Juſtices of the Peace, within and for our ſaid county of S *quorum unus*, at a place called in *D* in the ſaid county, at o'clock in the noon; then and there to anſwer to and defend againſt the complaint of *A. B.* to them exhibited, wherein he complains that [*Here the complaint ſhall be recited*] and you are to make a return of this writ, with your doings therein, unto our ſaid Juſtices, upon or before the ſaid day Witneſs our ſaid Juſtices, the day of in the Year of our Lord Form.

R. S.
N. O.

Which ſummons ſhall be ſerved upon the party complained againſt, or a copy thereof left at his uſual place of abode, ſeven days excluſively before the day appointed by the Juſtices for the trial; and if, after the ſervice of ſuch ſummons, the party does not appear to defend, the Juſtices ſhall proceed to the inquiry in the ſame manner as if he was preſent; and when the Jury ſhall appear, the Juſtices ſhall lay before the Jury the exhibited complaint, and ſhall adminiſter the following oath to them, *viz.* The party not appearing, the Juſtices to proceed.

Foreman's Oath.

"You as foreman of this jury do ſolemnly ſwear, that you will well and truly try whether the complaint of *A. B.* now laid before you, is true according to your evidence. *So help you GOD.*" Foreman's oath.

The other Juror's Oath.

"THE ſame oath which your foreman hath taken on his part, you and every of you ſhall well and truly obſerve and keep. *So help you GOD.*" The other Juror's oath.

And

And if the Jury shall find the same true, then they shall return their verdict in form following :

Form of their verdict.

AT a Court of Inquiry held before *R. S.* and *N. O.* Esquires, two of the Justices of the Peace, within and for the said county of *S* *quorum unus*, at *D.* in the said county of *S.* upon the day of in the Year of our Lord the Jury upon their oaths do find, that the lands or tenements in *D.* aforesaid, bounded (or described) as follows, as in the complaint upon the day of in the Year of our Lord was in the lawful and rightful possession of the said *A. B.* and that the said *E. F.* did upon the same day unlawfully with force and arms, and with a strong hand, enter forcibly upon the same (or being lawfully upon the same, did unlawfully with force and a strong hand) expel and drive out the said *A. B.* and that he doth still continue wrongfully to detain the possession from him, the said *A. B.* Wherefore the Jury find upon their oaths aforesaid, that the said *A. B.* ought to have restitution thereof without delay.

If the Jury shall not be full, the Sheriff to fill the pannel *de talibus circumstantibus.*

And if by accident or challenge there shall happen not to be a full jury, the Sheriff shall fill the pannel *de talibus circumstantibus*, as in other cases. And if the Jury, after a full hearing of the cause, shall find the complaint laid before them supported by evidence, they shall all sign their verdict in form aforesaid, otherwise the defendant shall be allowed his legal cost, and have his execution therefor.

Judgment to be entered up.

SECT. 3. *And it is further enacted*, That if the Jury shall return their verdict, signed by the whole pannel, that the complaint is supported, the Justices shall enter up judgment for the complainant to have restitution of the premises, and shall award their writ of restitution accordingly; and no appeal shall be allowed from the judgment of the Justices.

Proceedings may be removed by *certiorari.*

Provided nevertheless, That the proceedings may be removed by *certiorari* into the Supreme Judicial Court holden in such county, and be there quashed for irregularity, if any such there may be, nor shall such judgment be a bar to any after action brought by either party. Which writ of restitution shall be in form following :

COMMONWEALTH OF MASSACHUSETTS.

S——, ff.

(Seal.) *To the Sheriff of our county of* S——, GREETING.

Form of the writ.

WHEREAS at a Court of Inquiry of forcible entry and detainer, held at *D.* in our county of *S.* upon the day of in the year of our Lord, before *R. S.* and *N. O.* Esquires, two Justices of the Peace for our said county of *S. quorum unus*, the Jurors empannelled and sworn by our said Justices,

Juſtices, did return their verdict in writing, ſigned by each of them, that *A. B.* was upon the day of in the rightful poſſeſſion of a certain meſſuage or tract of land (as in the verdict returned) and that, &c. (as in the verdict) whereupon it was conſidered by our ſaid Juſtices, that the ſaid *A. B.* ſhould have reſtitution of the ſame. We therefore command you, that taking with you the force of the county if neceſſary, you cauſe the ſaid *E. F.* to be forthwith removed from the premiſes, and the ſaid *A. B.* to have the peaceable reſtitution of the ſame; and alſo that you levy of the goods, chattels or lands of the ſaid *E. F.* the ſum of being coſts taxed againſt him on the trial aforeſaid, together with *One Shilling* and *Four Pence* more for this writ and your own fees; and for want of ſuch goods, chattels or lands, of the ſaid *E. F.* by you found, you are commanded to take the body of the ſaid *E. F.* and him commit to our gaol, in *L.* in our ſaid county of *S.* there to remain until he ſhall pay the ſum aforeſaid, together with all fees ariſing on the ſervice of this writ, or until he is delivered by order of law, and make return of this writ, with your doings therein, within twenty days next coming. Witneſs our ſaid Juſtices, at *D.* aforeſaid, the day of in the Year of our Lord

R. S.
N. O.

Provided nevertheleſs, That this Act ſhall not extend unto any perſon who hath had the occupation or been in the quiet poſſeſſion of any lands or tenements by the ſpace of three whole years together, next before, and whoſe eſtate therein is not ended or determined. Proviſo.

[This Act paſſed *June* 30, 1784.]

An ACT againſt Duelling.

WHEREAS divers perſons, from the want of a due regard to the life of man, and in contempt of the authority and government of the Supreme Giver and Diſpoſer of life, a regard to which is eſſentially neceſſary to the preſervation and happineſs of a Republic, and in violation of the wiſe and righteous laws of civil ſociety, have voluntarily and maliciouſly engaged in the deteſtable and infamous practice of duelling, whereby upon falſe notions of honour, that reſult from a want of moral ſenſe and human feeling, many lives have been loſt, and many families have been brought to diſtreſs and ruin: Preamble.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That whoſoever ſhall, for private malice, diſpleaſure, fury or revenge, voluntarily engage in a duel with rapier or ſmall ſword, back-ſword, piſtol or any other dangerous weapon, to

the hazard of life, although death doth not thereby enſue, and ſhall, in due courſe of law before the Supreme Judicial Court in any county in this Commonwealth, be convicted thereof, ſhall be carried publickly in a cart to the gallows with a rope about his neck, and ſit thereon for the ſpace of one hour, with a rope about his neck as aforeſaid, and be committed to the common gaol of the county, without bail or mainprize, for the ſpace of twelve months, and find ſureties for the peace and good behaviour for the ſpace of one year after the expiration of the ſaid twelve months, or in lieu of the ſaid impriſonment ſhall be publickly whipped, not exceeding thirty-nine ſtripes.

Penalty for engaging in a duel, where death doth not enſue.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That any perſon who ſhall, by word, meſſage or any other way, challenge another to fight a duel, or ſhall accept a challenge, although no duel be fought, or ſhall any ways abet, prompt, encourage or ſeduce any perſon to fight a duel, or to challenge another to fight, and be convicted thereof in manner as aforeſaid, ſhall be fined to the uſe of the Commonwealth, in a ſum not exceeding *Three Hundred Pounds*, ſhall ſuffer ſix months' impriſonment, find ſureties for the peace and good behaviour for the term of one year, and be incapable of ſuſtaining any office under the government for the term of three years next following the time of ſuch conviction, or ſhall be liable to any or all thoſe puniſhments, at the diſcretion of the Court.

Penalty for challenging.

SECT. 3. *And be it further enacted*, That when it ſhall appear by the Coroner's inqueſt, that any perſon hath been killed in fighting a duel, the Coroner of the county where the fact was committed, ſhall be, and he hereby is directed and empowered to take effectual care, that the body of ſuch perſon ſo killed be immediately ſecured and buried without a coffin, with a ſtake drove through the body at or near the uſual place of execution, or ſhall deliver the body to any ſurgeon or ſurgeons, to be diſſected and anatomized, that ſhall requeſt the ſame and engage to apply the body to that uſe; but in caſe the body ſhall not be delivered to any ſurgeon or ſurgeons as aforeſaid, it ſhall be buried as before directed. *Provided*, The ſaid place of execution ſhall be within ten miles of the town or place where the perſon was killed, otherwiſe the body ſhall in like manner be buried in the moſt public road in the town or place where the fact was committed; and the charge of the Coroner's Inqueſt, as well as of the burial of the body, (if the ſame ſhall be buried) ſhall be defrayed out of the eſtate of the deceaſed (if any there be to be found) by warrant of diſtreſs, to be awarded by the Supreme Judicial Court, upon the Coroner's preſenting a bill of charge therefor; and if no eſtate be found, then the charge ſhall be paid out of the treaſury of the county where the fact was committed.

The body of a perſon killed in a duel, how to be diſpoſed of.

SECT.

SECT. 4. *And be it further enacted by the authority aforesaid*, That any person who shall slay or kill any other in a duel, or fight as aforesaid, and shall, upon conviction thereof on an indictment for murder, receive sentence of death, part of the judgment of the Court upon such conviction shall be, that the body be delivered to any surgeon or surgeons, to be dissected and anatomized, that shall appear in a reasonable time after execution to take the body and engage to apply it to that purpose; but if none shall appear as aforesaid, then the Sheriff who shall have execution done on the malefactor, shall bury the body without a coffin, in the same manner as the Coroner in this Act is directed to bury the body of a person killed in a duel.

The sentence of the court against any person convicted of killing another in a duel.

[This Act passed *June* 30, 1784.]

An ACT regulating Bail in Civil Actions.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That where bail is given on mean process in any civil action for the appearance of the party to answer the suit, and to abide the order and judgment of the Court thereon, every such person or persons who shall thus become bail, shall be obliged to satisfy the judgment out of his or their own estate, in case of the principal's avoidance and the return of *non est inventus* upon the execution.

Bail to satisfy the judgment, in case of the avoidance of the principal.

Provided nevertheless, That the bail may at any time before final judgment upon the original suit, bring the principal into Court, and deliver him into the custody thereof, and be thereby discharged of their suretiship.

Proviso.

SECT. 2. *And be it further enacted*, That when the principal shall avoid, so that his goods, lands or chattels cannot be found to satisfy the execution, nor his body found to be taken therewith, the person for whom judgment was given shall be entitled to his writ of *scire facias* from the same Court against the bail: And in case no just cause is shewn, judgment shall be given against them for the damages and cost recovered against the principal, with additional damages and cost, and execution shall be awarded against them accordingly.

Persons recovering judgment, entitled to a writ of *scire facias* against the bail.

Provided nevertheless, That if the bail shall bring their principal into Court before judgment is given upon the *scire facias*, and there deliver him to the order of the Court, and shall pay the cost which may have then arisen upon the *scire facias*, then the bail shall be discharged; and the principal shall be committed to gaol, there to remain for the space of thirty days, in order to his being taken in execution. And if the creditor shall not, within thirty days next after the surrender of the principal, take him in execution, the Sheriff shall discharge him upon his paying the legal prison-fees.

Proviso.

Writ of *ſcire facias* to be ſerved within one year after judgment.

SECT. 3. *And it is further enacted*, That no *ſcire facias* ſhall be ſerved upon the bail, unleſs it be done within one year next after the entering up final judgment againſt the principal.

Bail entitled to a remedy againſt the principal.

SECT. 4. *And it is further enacted*, That the bail may have their remedy by action on the caſe againſt their principal, for all damages ſuſtained by their becoming his ſureties.

[This Act paſſed *June* 30, 1784.]

An ACT for naturalizing *Thomas Robiſon*.

[This Act paſſed *June* 30, 1784.]

An ACT to enable the Inhabitants of the Town of *Long-Meadow*, to lay out and confirm Highways in the ſaid Town, at any legal Meeting before the ſixth day of *November*, Seventeen hundred and eighty-four.

[This Act paſſed *July* 1, 1784.]

An ACT in addition to, and for the Explanation of an Act, entitled, "An Act laying Duties of Impoſt and Exciſe on certain Goods, Wares and Merchandize therein deſcribed; and for repealing the ſeveral Laws heretofore made for that Purpoſe."

[This Act paſſed *July* 1, 1784. Repealed *March* 3, 1790.]

An ACT eſtabliſhing Naval-Offices in this Commonwealth, and for the repealing Laws made for that Purpoſe.

[This Act paſſed *July* 1, 1784. Repealed.]

An ACT veſting certain Powers in Congreſs.

[*For the Regulation of Foreign Commerce.*]

[This Act paſſed *July* 1, 1784.]

An ACT for obtaining a juſt and accurate Account of the Quantity of Land within this Commonwealth, granted to or ſurveyed for any Perſon, the Number of Buildings thereon, and of its Inhabitants, purſuant to a Reſolve of Congreſs, paſſed the ſeventeenth Day of *February*, One thouſand ſeven hundred and eighty-three.

[This Act paſſed *July* 2, 1784.]

An ACT granting to *Simon Willard*, the exclusive Privilege of making and vending Clock-Jacks for five Years.

[This Act passed *July* 2, 1784.]

An ACT in addition to an Act passed the twenty-second Day of *October*, in the Year of our Lord, One thousand seven hundred and eighty-three, entitled, "An Act making Provision for the Support and Maintenance of Light-Houses on the Sea-Coasts of this Commonwealth."

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That there shall be paid by the master of every vessel not belonging to this or either of the United States, from and after the tenth day of *July* inst. a duty of *Four Pence* per ton for every ton such vessel shall measure, into the hands of the naval officer of the port where the said vessel shall clear out, previous to the clearing the same; which duty shall be collected and appropriated in the same manner as is provided in the Act to which this Act is in addition.

Duty of *Four Pence* per ton on every vessel not belonging to either of the United States.

SECT. 2. *And be it further enacted*, That where any dispute shall arise between the naval officer and the master of any vessel, subject to the payment of the aforesaid duty, touching the number of tons such vessel really measures, the said naval officer and the master of the said vessel shall appoint two meet persons, one to be chosen by the said naval officer, and the other by the said master, to measure the said vessel; and the said master shall pay for so many tons as the said persons so chosen shall judge and determine the said vessel doth really measure. And if any master shall refuse or neglect to agree with the naval officer in the appointment of such appraisers, any Justice of the Peace within the county where such naval officer dwells, upon his application, shall be, and hereby is empowered to appoint three discreet persons to the performance of the said business, who shall be sworn to the faithful and impartial discharge of their trust, who having under their hands certified their judgment therein, the same shall be conclusive and binding.

Where disputes arise, touching the number of tons, two meet persons to be chosen to measure the vessel.

[This Act passed *July* 2, 1784.]

An ACT for the Regulation of Seamen.

[This Act passed *July* 5, 1784.]

An

An ACT to incorporate the Church and Congregation in the Diſtrict of *Orange*, in the County of *Hampſhire*, whereof the Reverend Mr. *Emerſon Foſter* is the preſent Miniſter, into a Society, by the Name of *The Congregational Society in Orange.*

[This Act paſſed *July* 5, 1784.]

An ACT for erecting a Diſtrict within the County of *Suffolk*, by the Name of *Dover.*

[This Act paſſed *July* 7, 1784.]

An ACT for regulating the Fees and Forms in the Naval-Offices within this Commonwealth.

[This Act paſſed *July* 7, 1784.]

An ACT for inquiring into the rateable Property of this Commonwealth.

[This Act paſſed *July* 8, 1784.]

An ACT to empower the Treaſurer of this Commonwealth to receive Certificates from the Commiſſioner of Loans in this State, in Part of the Taxes granted in Compliance with the Requiſition of Congreſs, of *October* thirtieth, One thouſand ſeven hundred and eighty-one, for this State's Proportion of Eight Millions of Dollars; and to apply a Part of the ſaid Taxes for the Payment of the Debts of this Commonwealth.

[This Act paſſed *July* 9, 1784.]

An ACT for apportioning and aſſeſſing a Tax of *One Hundred* and *Forty Thouſand Pounds*, for the ſole Purpoſe of redeeming the Army Notes, iſſued purſuant to an Act of this State, paſſed the fifth Day of *July*, 1781, and payable in the Years 1784 and 1785; and for raiſing the further Sum of *Eleven Thouſand* and *Thirty-Five Pounds*, *Six Shillings* and *Six Pence*, for the Purpoſe of replacing the ſame Sum which hath been paid out of the Treaſury to the Repreſentatives, for their Attendance on the five laſt Seſſions of the General Court, *viz.* From *November*, One thouſand ſeven hundred and eighty-two, to *March*, One thouſand ſeven hundred and eighty-four.

[This Act paſſed *July* 9, 1784.]

An ACT aſcertaining the Rates at which coined Silver and Gold, and Engliſh Half-Pence and Farthings, may paſs within this Commonwealth.

[This Act paſſed *October* 26, 1784.]

An ACT for incorporating the Congregational Church in the Town of *Charlton*, with certain other Inhabitants of the ſaid Town, into a diſtinct Pariſh.

[This Act paſſed *October* 26, 1784.]

An ACT preſcribing Forms of Writs in Civil Cauſes, and directing the Mode of proceeding therein. Addit. Act, Mar. 14, 1785.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That in all civil actions, the original proceſs in the following caſes betwixt party and party, ſhall be made out in the forms following, *that is to ſay*,

[*Summons.*]

COMMONWEALTH OF MASSACHUSETTS.

(Seal.) *S*———, ſſ.

To the Sheriff of our county of S———, *or his Deputy*, GREETING.

WE command you, that you ſummon *A. B.* of *C.* [addition] (if he may be found in your precinct) to appear before our Juſtices of our Court of to be holden at *B.* within and for our ſaid county of *S.* on the Tueſday of then and there in our ſaid Court to anſwer to *D. E.* of *R.* within our county of *M.* [addition] in a plea of to the damage of the ſaid *D. E.* (as he ſaith) the ſum of *Pounds*, which ſhall then and there be made to appear, with other due damages. And have you there this writ, with your doings therein. Witneſs *E. H.* Eſq. at *B.* the day of in the year of our LORD

Summons.

A. D. Clerk.

[Capias, *or Attachment.*]

COMMONWEALTH OF MASSACHUSETTS.

(Seal.) *S*———, ſſ.

To the Sheriff of our county of S———, *or his Deputy*, GREETING.

WE command you to attach the goods or eſtate of *R. F.* of *B.* within our county of *S.* [addition] to the value of *Pounds*, and for want thereof to take the body of the ſaid

Capias, or Attachment.

said *R. F.* (if he may be found in your precinct) and him safely keep, so that you have him before our Justices of our Court of next to be holden at *B.* within and for our said county of *S.* on the Tuesday of then and there in our said Court, to answer unto *D. S.* of *R.* within our county of *M.* [addition] in a plea of to the damage of the said *D. S.* (as he saith) the sum of *Pounds*, which shall then and there be made to appear, with other due damages. And have you there this writ, with your doings therein. Witness *E. H.* Esq. at *B.* the day of in the year of our LORD

A. D. Clerk.

Summons when goods are attached.

[*Summons when goods are attached.*]

COMMONWEALTH OF MASSACHUSETTS.

S——, ss.

(Seal.) *To* A. B. *of* B. *within our county of* S——, [*addition*] GREETING.

WE command you, that you appear at our next Court of to be holden at *B.* within and for our county of *S.* aforesaid, on the Tuesday of then and there to answer to *C. D.* of *R.* within our county of *M.* [addition] in a plea of which plea the said *C. D.* hath commenced against you, to be heard and tried at the said Court; and your goods or estate are attached to the value of *Pounds*, for security to satisfy the judgment which the said *C. D.* may recover upon the aforesaid trial. Fail not of appearance at your peril. Witness *E. H.* Esq. at *B.* the day of in the year of our LORD

A. D. Clerk.

Execution.

[*Execution.*]

COMMONWEALTH OF MASSACHUSETTS.

(Seal.) *S*——, ss.

To the Sheriff of our county of S——, *or his Deputy*, GREETING.

WHEREAS *C. L.* of *R.* within our county of *S.* [addition] by the consideration of our Justices of our Court of holden at *B.* for and within our county of *S.* aforesaid, on the Tuesday of recovered judgment against *D. T.* of *B.* in the county of *M.* [addition] for the sum of *Pounds* *Shillings* and *Pence*, debt or damage, and *Pounds* *Shillings* and *Pence*, costs of suit, as to us appears of record, whereof execution remains to be done: We command you, therefore, that of the goods, chattels or lands of the said *D. T.* within your precinct, you cause to be paid and satisfied unto the said *C. L.* at the value thereof in money, the aforesaid sum, being *Pounds* *Shillings* and *Pence*, in the whole, with *Shillings* more for this writ, and thereof also

alſo to ſatisfy yourſelf for your own fees. And for want of goods, chattels or lands of the ſaid *D. T.* to be by him ſhewn unto you, or found within your precinct, to the acceptance of the ſaid *C. L.* to ſatisfy the ſums aforeſaid, we command you to take the body of the ſaid *D. T.* and him commit unto our gaol in *B.* in our county of *S.* aforeſaid, and detain in your cuſtody within our ſaid gaol, until he pay the full ſums abovementioned, with your fees, or that he be diſcharged by the ſaid *C. L.* the creditor, or otherwiſe by order of law. Hereof fail not, and make return of this writ, with your doings therein. Witneſs *E. H.* Eſq. at *B.* the day of in the year of our LORD

A. D. Clerk.

SECT. 2. *And be it enacted by the authority aforeſaid*, That the writ for putting ſuch into poſſeſſion of any land or tenements as ſhall recover judgment for the ſame, and for levying the coſt and damages recovered upon ſuch ſuit, commonly called a writ of *facias habere Poſſeſſionem*, and writ of *fieri facias*; as alſo the writ of *ſcire facias*, to be iſſued out of the Supreme Judicial Court, or Court of Common Pleas, reſpectively, ſhall be from time to time granted and iſſued in the form following, *that is to ſay*,

[*Writ of* Facias habere Poſſeſſionem, *and* Fieri Facias.]

Writ of *Facias habere Poſſeſſionem*, and *Fieri Facias*.

COMMONWEALTH OF MASSACHUSETES.

(Scal.) S———, ſſ.

To the Sheriff of our county of S———, *or his Deputy*, GREETING.

WHEREAS *A. B.* of *C.* [addition] before our Juſtices of our Court of holden for or within our county of *S.* aforeſaid, at *B.* upon the day of by the conſideration of our ſaid Court, recovered judgment for his title and poſſeſſion of and in a certain meſſuage or tenement, with the appurtenances, or acres of land, with the appurtenances and privileges, lying and being in the town of *D.* againſt *E. F.* of *G.* [addition] who had unjuſtly withheld, put out or amoved the ſaid *A. B.* from his poſſeſſion thereof; and alſo at the ſaid Court recovered judgment for *Pounds* *Shillings* and *Pence*, for coſts and damages, which he ſuſtained by reaſon of the ſame, as to us hath been made to appear of record: We command you, therefore, that without delay, you cauſe the ſaid *A. B.* to have poſſeſſion of and in the ſaid meſſuage or tenement, with the appurtenances; or the ſaid acres of land, with the appurtenances and privileges: We alſo command you, that of the goods, chattels or lands of the ſaid *E. F.* within your precinct, at the value thereof in money, you cauſe the ſaid *A. B.* to be paid and ſatisfied the aforeſaid ſum of *Pounds* *Shillings* and *Pence*, which to the ſaid *A. B.* was adjudged for his coſts and damages, with

Shillings

Shillings more for this writ, and thereof alſo to ſatisfy yourſelf for your own fees. And for want of ſuch goods, chattels or lands of the ſaid *E. F.* to be by him ſhewn unto you or found within your precinct to the acceptance of the ſaid *A. B.* to ſatisfy the aforeſaid ſum: We command you to take the body of the ſaid *E. F.* and him commit unto our gaol, in *B.* in our county of *S.* aforeſaid, and detain in your cuſtody within our ſaid gaol, until he pay the full ſum abovementioned with your fees; or that he be diſcharged by the ſaid *A. B.* or otherwiſe by order of law. Hereof fail not, and make return of this writ, with your doings therein. Witneſs *E. H.* Eſq. at *B.* the day of in the year of our LORD

A. D. Clerk.

Writ of *Scire Facias.*

[*Writ of* Scire Facias.]

COMMONWEALTH OF MASSACHUSETTS.

(Seal.) S———, ſſ.

To the Sheriff of our county of S———, *or his Deputy*, GREETING.

WHEREAS *C. D.* of *B.* [addition] before our Juſtices of our Court of holden for or within our ſaid county of *S.* at *B.* on the day of in the year of our Lord by the conſideration of our ſaid Juſtices, recovered againſt *A. B.* of *E.* [addition] the ſum of *Pounds* *Shillings* and *Pence*, debt or damage; and alſo *Pounds* *Shillings* and *Pence*, for coſts and charges by him about his ſuit in that behalf expended, whereof the ſaid *A. B.* is convict, as to us appears of record; and although judgment be thereof rendered, yet the execution for the ſaid debt or damage and coſts doth yet remain to be made, whereof the ſaid *C. D.* hath made application to us to provide remedy for him in that behalf: Now to the end that juſtice be done, we command you, that you make known unto the ſaid *A. B.* that he be before our Juſtices of our ſaid Court of to be holden within or for our ſaid county of *S.* at *B.* on the of to ſhew cauſe (if any he hath) wherefore the ſaid *C. D.* ought not to have his execution againſt him, the ſaid *A. B.* for his debt or damage and coſts aforeſaid; and further to do and receive that which our ſaid Court ſhall then conſider; and there and then have you this writ, with your doings therein. Herein fail not. Witneſs *E. H.* Eſq. at *B.* the day of in the year of our LORD

A. D. Clerk.

SECT. 3. *And be it enacted*, That the ſeveral forms of writs and proceſſes here underwritten, ſhall be, and hereby are eſtabliſhed to be the forms to be granted and uſed in civil cauſes triable before a Juſtice of the Peace, *that is to ſay*,

[*Summons*

[*Summons for Appearance.*]

(Seal.) *S*———, ff.

To the Sheriff of the ſaid county of S———, *or either of his Deputies, or the Conſtables of the town of* B. *within the ſaid county, or to any or either of them,* GREETING. Summons for appearance.

IN the name of the Commonwealth of *Maſſachuſetts*, you are required to ſummon and give notice unto *T. P.* of *B.* aforeſaid, [addition] (if he may be found in your precinct) that he appear before me, *J. D.* Eſq. one of the Juſtices of the Peace for the county aforeſaid, at my dwelling-houſe in *B.* on the day of at of the clock in the noon; then and there to anſwer to *E. L.* of *M.* [addition] in a plea of to the damage of the ſaid *E. L.* (as he ſaith) the ſum of as ſhall then and there appear with other due damages. And of this writ, with your doings therein, you are to make true return unto myſelf, at or before the ſaid day of . Dated at *B.* aforeſaid, the day of in the year of our LORD . *J. D.*

[Capias, *or Attachment.*]

(Seal.) *S*———, ff.

To the Sheriff of the ſaid county of S———, *or either of his Deputies, or the Conſtables of the Town of* B. *within the ſaid county, or to any or either of them,* GREETING. Capias, or Attachment.

IN the name of the Commonwealth of *Maſſachuſetts*, you are required to attach the goods or eſtate of *T. P.* of *B.* aforeſaid, [addition] to the value of and for want thereof, to take the body of the ſaid *T. P.* (if he may be found in your precinct) and him ſafely keep, ſo that he may be had before me, *J. D.* Eſq. one of the Juſtices of the Peace for the county aforeſaid, at my dwelling-houſe in *B.* on the day of at of the clock in the noon; then and there to anſwer to *E. L.* of *M.* [addition] in a plea of to the damage of the ſaid *E. L.* (as he ſaith) the ſum of as ſhall then and there appear, with other due damages. Hereof fail not, and make due return of this writ, and of your doings therein, unto myſelf, at or before the ſaid day of . Dated at *B.* aforeſaid, the day of in the year of our LORD *J. D.*

[*Summons when goods are attached.*]

(Seal.) *S*———, ff.

To T. P. *of* D. *in the county of* S———, [addition] GREETING. Summons when goods are attached.

IN the name of the Commonwealth of *Maſſachuſetts*, you are commanded to appear before me, *J. D.* Eſq. one of the Juſtices

tices of the Peace for the county aforesaid, at my dwelling-house in *B.* on the day of at of the clock in the noon, to answer unto *E. L.* of *M.* [addition] in a plea of which plea the said *E. L.* hath commenced to be heard and tried before me; and your goods or estate are attached to the value of for security, to satisfy the judgment which the said *E. L.* may recover upon the aforesaid trial. Fail not of appearance at your peril. Dated at *B.* aforesaid, the day of in the year of our LORD

J. D.

[*Execution.*]

COMMONWEALTH OF MASSACHUSETTS.

S———, ff.

Execution. (Seal.) *To the Sheriff of our said county of* S———, *or either of his Deputies, or the Constables of the town of* B. *within our said county, or any or either of them,* GREETING.

WHEREAS *E. L.* of *M.* [addition] on the day of before *J. D.* Esq. one of our Justices of the Peace for our county aforesaid, recovered judgment against *T. P.* of *B.* [addition] for the sum of debt or damage, and *Shillings* and *Pence* for charges of suit, as to us appears of record, whereof execution remains to be done: We command you, therefore, that of the money of the said *T. P.* or of his goods or chattels within your precinct, at the value thereof in money, you cause to be levied, paid and satisfied unto the said *E. L.* the aforesaid sums, being *Pounds* *Shillings* and *Pence*, in the whole; and also that out of the money, goods or chattels of the said *T. P.* you levy more for this writ, together with your own fees. And for want of such money, goods or chattels of the said *T. P.* to be by him shewn unto you, or found within your precinct, to the acceptance of the said *E. L.* for satisfying the aforesaid sums: We command you to take the body of the said *T. P.* and him commit unto our gaol in *B.* and we command the keeper thereof accordingly, to receive the said *T. P.* into our said gaol, and him safely to keep, until he pay the full sums abovementioned, with your fees, or that he be discharged by the said *E. L.* the creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said Justice, within sixty days next coming. Witness our said Justice, at *B.* the day of in the year of our LORD

J. D.

SECT. 4. *And be it further enacted*, That the form of the writ of *scire facias* aforesaid, shall be the form of a writ of *scire facias* upon a judgment recovered before a Justice of the Peace, *mutatis mutandis*.

SECT.

SECT. 5. *And be it further enacted by the authority aforesaid*, That the Clerk of each town respectively, within this Commonwealth, as well as the Clerks of the several Courts aforesaid, may, and are hereby respectively empowered to grant summons for witness in civil causes, directed to the person to be summoned for witness; which summons shall be made out in the form following, *that is to say*,

[Subpæna *for witnesses.*]

Subpæna for witnesses.

S——, ff.

To A. B. *of* C. [*addition.*] GREETING.

YOU are hereby required, in the name of the Commonwealth of *Massachusetts*, to make your appearance before the Justices of the next to be holden at *B.* within and for the county of *S.* on the Tuesday of to give evidence of what you know relating to an action or plea of then and there to be heard and tried betwixt *A. B.* of *C.* [addition] plaintiff, and *D. E.* of *E.* (addition) defendant. Hereof fail not, as you will answer your default under the pains and penalty in the law in that behalf made and provided. Dated at *B.* the day of in the year of our LORD

A. D. Clerk.

SECT. 6. *And be it further enacted*, That every Justice of the Peace may, and hereby is empowered to grant summons for witnesses in civil causes triable before himself, such summons to be directed as, and similar to, the summons for witnesses in civil causes as aforesaid, *mutatis mutandis*. And if any person or persons who shall be served with lawful process or summons to testify, depose, or give evidence concerning any cause or matter depending in any of the Courts aforesaid, or before any Justice of the Peace as aforesaid, and having tendered unto him or them such reasonable sum or sums of money for his or their costs and charges, as, having regard to the distance of the places, is necessary to be allowed in that behalf, do not appear according to the tenor of the process or summons, having no reasonable let or impediment to the contrary; then the person so making default shall be liable to the action of the aggrieved party for all damages by him sustained by such default, and the Court or Justice of the Peace shall have power by attachment to bring such contemptuous witness into Court or before him, and to fine him at discretion not exceeding the sum of *Six Pounds*, and shall order him to pay the cost of such attachment.

Justices empowered to grant summons for witnesses.

Persons making default, liable to the action of the aggrieved party.

SECT. 7. *And it is further enacted*, That when any defendant shall be duly served with process, and return thereof shall be made into the Court where the same is returnable, and he shall not appear by himself, or his attorney, his default shall be recorded, and the charge in the declaration shall be taken and deemed

Defendants served with process, and they not appearing, their default to be recorded.

deemed to be true, and the Court shall thereupon give such damages as they shall find upon inquiry that the plaintiff shall have sustained, unless the plaintiff shall move to have a jury to inquire into the damages, in which case the Court shall enter up judgment for such damages as the jury shall assess. *Provided nevertheless*, That if the defendant shall come into Court at any time before the jury is dismissed, and shall pay down to the adverse party the costs he has been at thus far, or so much thereof as the Court shall judge reasonable, then the Court may admit the defendant to have the same day in Court as if his default had never been recorded.

Proviso.

When judgment is given, persons appealing to be entitled to a jury at the Supreme Judicial Court.

SECT. 8. *And it is also enacted*, That when any person in whose favour a judgment is given at the Court of Common Pleas shall appeal therefrom because the damages given are too small, he shall be entitled to a jury at the Supreme Judicial Court to inquire into the damages without any further notice to the appellee. And when in the Common Pleas judgment shall be given either upon abatement or demurrer, the party against whom judgment is given shall have the privilege of appealing, without any further proceedings had in the Common Pleas. And all agreements for waving pleas, and for amendments, and for making new pleas at the Supreme Judicial Court, made and entered upon the records of the Common Pleas, shall be binding to the parties throughout the whole process of the suit.

When plaintiffs become nonsuit, the defendants to recover costs against them.

SECT. 9. *And it is also enacted*, That when any plaintiff shall, in any stage of his action, become nonsuit, or discontinue his suit, the defendant shall recover his cost against him, and that in all actions, as well those of *qui tam* as others, the party prevailing shall be entitled to his legal costs against the other.

No persons imprisoned upon mean process to be held in gaol above 30 days unless

SECT. 10. *And it is further enacted*, That no person imprisoned upon mean process shall be held in prison upon such process above the space of thirty days next after the entering up final judgment upon the writ whereby he is committed; unless he shall be continued there by having his body taken in execution, nor shall the prison-keeper discharge any such prisoner unless judgment is given in his favour, until thirty days next after the said judgment is entered up, unless the party at whose suit he was committed, shall give order, in writing, for his discharge, and shall pay the legal fees of the gaoler.

How original writs issued are to be indorsed.

SECT. 11. *And it is further enacted*, That all original writs issuing out of the Supreme Judicial Court, or Court of Common Pleas, shall, before they are served, be indorsed on the back thereof by the plaintiff or plaintiffs, or one of them, with his christian and surname, if he or they are inhabitants of this Commonwealth, or by his or their agent or attorney, being an inhabitant thereof, and where the plaintiff is not an inhabitant of this Commonwealth, then his writ shall be indorsed in manner

ner aforesaid, by some responsible person who is an inhabitant of this Commonwealth, provided that the Court may, upon motion, in consideration that the agent or attorney who indorsed the writ is not of ability for the purposes hereafter mentioned, order that the plaintiff shall procure a new indorser, and such new indorser shall be held in the same manner as if the indorsement had been made before the writ was served, and unless the plaintiff shall procure such new indorser when directed thereunto by the Court, he shall become nonsuit, but no costs shall be awarded against him. And the plaintiff's agent or attorney who shall so indorse his name upon an original writ, shall be liable, in case of the avoidance or inability of the plaintiff, to pay the defendant all such costs as he shall recover, and to pay all prison-charges that may happen, where the plaintiff shall not support his action. And all goods and estate attached upon mean process, for the security of the debt or damages sued for, shall be held for the space of thirty days after final judgment, to be taken in execution. And if the creditor shall not take them in execution within thirty days after judgment, the attachment shall be void.

When actions are brought to recover debts, the defendants may file their accounts.

SECT. 12. *And be it further enacted*, That when an action shall be brought to recover a debt due on book accounts, an account stated by the parties, *a quantum meruit*, *quantum valebat*, or for services done upon an agreed price, the defendant may file any account he hath in the Clerk's office seven days before the sitting of the Court of Common Pleas where the action is brought, or, if the suit is before a Justice of the Peace, the account shall be filed before the Justice four days before the day of trial, and, upon the general issue, give the same in evidence against the plaintiff's demand. And if upon the trial it shall appear that there is a balance due to the defendant, he shall recover the same in the same manner as if he had brought his action therefor; and where a plaintiff shall, at the same Court, bring divers actions upon demands which might have been joined in one, he shall recover no more costs than in one action only.

Personal or transitory actions to be brought in the county where one of the parties lives.

SECT. 13. *And be it also enacted*, That when the plaintiff and defendant both live within the Commonwealth, all personal or transitory actions shall be brought in the county where one of the parties lives. And when an action shall be commenced in any other county, then, as above directed, the writ shall be abated and the defendant allowed double costs.

No summons, writs, &c. in the Courts, to be abated, &c. for any errors.

SECT. 14. *And be it further enacted by the authority aforesaid*, That no summons, writ, declaration, process, judgment or other proceedings in the courts, or course of justice, shall be abated, arrested, quashed or reversed for any kind of circumstantial errors or mistakes, when the person and case may be rightly understood by the Court, nor through defect or want of form only; and the Court, on motion made, may order amendments.

SECT.

Executions not to iſſue until.

SECT. 15. *And be it further enacted*, That execution ſhall not iſſue in any caſe, until the expiration of twenty-four hours after the entering up of judgment.

[This Act paſſed *October* 30, 1784.]

Hancock and Waſhington made counties, June 25, 1789, and Act, Mar. 17, 1784.

An ACT empowering the Inhabitants of the County of *Lincoln*, Eaſtward of *Union-River*, to chooſe a Regiſter of Deeds, and for the eſtabliſhing a Court of Probate, to be holden within and for all that Part of the ſaid County, which lies to the Eaſtward of the ſaid River.

[This Act paſſed *November* 6, 1784.]

Act for altering a certain clauſe, Oct. 20, 1786. Addit. Act, June 25, 1789.

An ACT regulating the Exportation of Flax-Seed, Pot-Aſh, Pearl-Aſh, Beef, Pork, barreled Fiſh, and dried Fiſh.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That from and after the twentieth day of *December* next, no flax-ſeed ſhall be ſhipped or exported out of this Commonwealth, but ſuch as ſhall have been ſurveyed and found to be well cleanſed and in good order, and in caſks, each caſk containing ſeven buſhels and one peck, or in caſks containing one half the ſaid quantity each.

No flaxſeed to be exported, unleſs ſurveyed and found to be well cleanſed, &c.

Governor empowered to appoint ſurveyors of flaxſeed.

SECT. 2. *And be it further enacted*, That the Governor, by and with the advice and conſent of the Council, be, and is hereby empowered, to appoint, in ſuch ſea-port towns within this Commonwealth as there ſhall be occaſion, one or more ſkilful and diſintereſted perſon or perſons, to be Surveyors, for the ſurveying and proving flax-ſeed, who ſhall be ſworn to the due and impartial execution of their truſt: And their duty ſhall be to inſpect and ſurvey all flax-ſeed that ſhall be intended to be laden on board of any veſſel for foreign exportation; and every ſuch Surveyor is hereby authorized to open the caſks containing the ſaid commodity, intended to be exported as aforeſaid, and if need be, meaſure and ſhift the ſame into other caſks, ſo as thoroughly to examine the whole, and ſee that it be clear from mixture of wild or other ſeed, or dirt, and of the meaſure aforeſaid. And every caſk containing the ſaid quantity, which by ſuch ſurvey and examination ſhall, according to the Surveyor's beſt judgment, appear to be cleanſed as aforeſaid, he ſhall mark or imprint with a burning iron, the following mark or letters, A. P. with the name of the town where it ſhall be thus approved,

Their duty.

approved, the name of the ſaid Surveyor at large, and the letter S. at the end thereof, denoting that the ſame has been ſurveyed and approved.

No pot or pearl aſh ſhall be exported, unleſs aſſayed and found merchantable.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That from and after the twentieth day of *December* next, no pot-aſh, or pearl-aſh, ſhall be ſhipped or exported out of this Commonwealth, but ſuch as ſhall have been aſſayed and found to be of ſufficient ſtrength and purity, and to have thoſe qualities in ſuch degree of perfection as ſhall be aſcertained and fixed by the Governor, with the advice and conſent of the Council, as the ſtandard of ſuch pot-aſh and pearl-aſh as ſhall be deemed merchantable, and fit for exportation.

Governor and Council empowered to appoint aſſay-maſters, for proving and aſſaying pot-aſh, &c.

SECT. 4. *And be it further enacted*, That the Governor and Council be, and they are hereby empowered to appoint, in ſuch ſea-port towns within this Commonwealth as there ſhall be occaſion, one or more ſkilful and diſintereſted perſon or perſons, to be Aſſay-Maſters, for the proving and aſſaying pot-aſh and pearl-aſh, who ſhall be ſworn to the due and impartial execution of their truſt; and their duty ſhall be to inſpect and aſſay all pot-aſh and pearl-aſh, that ſhall be brought to any ſuch ſea-port town to be ſhipped; and every ſuch Aſſay-Maſter is hereby authorized to open the caſks or veſſels containing thoſe commodities, and to take out ſo much thereof as may diſcover the quality of the whole; and every caſk or other veſſel of pot-aſh or pearl-aſh, which by ſuch aſſay ſhall be found to be good and merchantable, according to the rule or ſtandard that ſhall be eſtabliſhed as aforeſaid, he ſhall mark or imprint, with a burning iron, the following mark or letters, AS. D. with the name of the town where the ſame ſhall have been thus aſſayed, and the Aſſayer's name at large, and the letter A. at the end thereof, denoting that the ſame has been aſſayed and approved.

Their duty.

Perſons preſuming to ſhip any flax-ſeed, pot-aſh, &c. not approved:

SECT. 5. *And be it further enacted*, That if the owner of any flax-ſeed, pot-aſh or pearl-aſh, or other perſon employed by him, ſhall preſume to lade, or put on board any veſſel, bound out of the Commonwealth, any flax-ſeed, pot-aſh or pearl-aſh, other than ſuch as ſhall have been approved by a Surveyor or Aſſay-Maſter, reſpectively, or ſhall be contained in any caſk or other veſſel that ſhall not have their marks, ſtamps or brands upon it; or if any maſter of a ſhip or other veſſel, or other officer or mariner, ſhall receive on board any ſuch, the offender or offenders ſhall incur the penalty of *Five Pounds* for each caſk or other veſſel ſo ſhipped, to be ſued for and recovered in any court of record within this Commonwealth, proper to try the ſame; and all ſuch flax-ſeed, pot-aſh and pearl-aſh (laded or received on board as aforeſaid) ſhall be forfeited. And it ſhall be lawful for any Juſtice of the Peace, upon information given of any flax-ſeed, pot-aſh or pearl-aſh, put on board any ſuch ſhip or other veſſel, as aforeſaid, not marked as aforeſaid,

Penalty.

to iſſue his warrant, directed to the Sheriff or his Deputy, or Conſtable, requiring them reſpectively to make ſeizure of any ſuch flax-ſeed, pot-aſh, and pearl-aſh, ſhipped and not marked as aforeſaid, and to ſecure the ſame in order for trial, and ſuch officers are hereby reſpectively empowered and required to execute the ſame.

Perſons ſhifting the contents of caſks after being approved.

Penalty.

SECT. 6. *And be it further enacted*, That if, after any caſk or other veſſel, containing flax-ſeed, or pot-aſh, or pearl-aſh, ſhall have been approved and ſtamped with the Surveyor's or Aſſay-Maſter's marks, ſtamps or brands, any cooper or other perſon ſhall preſume to ſhift the contents of ſuch caſk or other veſſel, and to put therein any flax-ſeed, pot-aſh or pearl-aſh, that has not been duly ſurveyed or aſſayed, and approved as aforeſaid, ſuch cooper or other perſon offending therein, ſhall forfeit and pay the ſum of *Ten Pounds* for every caſk ſo ſhifted, to be recovered in manner as aforeſaid.

Surveyors or aſſay-maſters guilty of neglect or fraud:

Penalty.

SECT. 7. *And be it further enacted*, That in caſe any Surveyor or Aſſay-Maſter, appointed and ſworn as aforeſaid, ſhall be guilty of any neglect or fraud in aſſaying or ſurveying any flax-ſeed, pot-aſh or pearl-aſh, contrary to the true intent and meaning of this Act, or ſhall mark with their reſpective brands, ſtamps or marks, any caſk containing flax-ſeed, or pot-aſh, or pearl-aſh, which they had not actually and thoroughly ſurveyed or aſſayed, and which may be intended for exportation out of this State, he or they ſhall forfeit and pay the ſum of *Ten Pounds* for every ſuch neglect, or for every caſk falſely marked, to be recovered as aforeſaid.

Each caſk, before any pot or pearl-aſh are put therein, to be weighed, &c.

SECT. 8. *Be it further enacted by the authority aforeſaid*, That each caſk, before any pot-aſh or pearl-aſh are put therein, ſhall be weighed by the manufacturer of ſuch pot-aſh or pearl-aſh, who ſhall, with a marking-iron, mark on one of the heads thereof the full weight of the caſk, and the initial letters of his name; and in caſe he ſhall falſely mark the ſame, ſuch manufacturer, upon conviction thereof, ſhall forfeit and pay the ſum of *Forty Shillings*, for each caſk ſo falſely marked.

Surveyors and aſſay-maſters' fees.

SECT. 9. *And be it further enacted*, That the reſpective Surveyors and Aſſay-Maſters ſhall be paid for every caſk of flax-ſeed, pot-aſh or pearl-aſh, that they ſhall ſurvey or aſſay, the ſum of *Six Pence*, provided the number does not exceed ten, and *Four Pence* for each caſk exceeding that number, excluſive of cooperage, to be paid by the ſhipper.

Selectmen to chooſe annually fit perſons to be ſearchers and packers of barreled beef, &c.

SECT. 10. *Be it further enacted by the authority aforeſaid*, That the Selectmen, or the major part of them, in every town in the Commonwealth where there may be occaſion, be, and they are hereby empowered and directed, to chooſe and appoint annually a fit perſon or perſons to be ſearchers and packers of barreled beef, pork and fiſh, who ſhall be ſworn to the faithful execution of their truſt, by the Town-Clerk of the ſaid town, and

and the said Town-Clerk shall record the same in the town books; whose duty shall be to pack and search all the fish, beef and pork which shall be packed in the same, designed for exportation out of this State, and they shall not pack any fish, beef or pork, in any cask which shall be of unseasoned stuff, or which shall be under the assize established by law, under the penalty of *Ten Shillings* for every cask so packed.

SECT. 11. *And be it further enacted*, That in every town where such commodities are packed up for sale, the searcher and packer of such town, or of the town where they are put to sale or shipped, shall, previously thereto, see that they be properly repacked, and that there be good salt in each cask, sufficient to preserve the fish, beef or pork from damage, to any port or place to which they are designed to be shipped; and it shall be his business to see that the beef and pork in cask is of the whole, half and quarter, and so proportionably, that the best be not left out; and that each barrel of pork shall weigh two hundred pounds weight, and each barrel of beef two hundred and twenty pounds weight, each cask to be well seasoned, and bound with not less than twelve sufficient hoops; and that mackarel and other barreled fish be packed all of one kind, and in casks well seasoned, containing not less than thirty gallons, and that all casks so packed be full, and the fish sound and well seasoned; on all which casks of beef, pork and fish, so searched, examined and approved, the said packer shall brand or imprint, with a burning iron, the following brand or mark, MASS. RPD. with the initial letters of his christian name and his surname at large, and the letter P. at the end thereof, denoting that the same is merchantable, and in good order for exportation; and all such other provision as the packer shall find wholesome and useful, though for its quality it be not merchantable, he shall cause to be well packed, salted and filled, and the same mark with the word REFUSE; for which he shall receive from the owner *Six Pence* for each barrel, and so in proportion for a larger or smaller cask. And if any such provisions be put to sale, or shipped off, without having been approved by a packer, and the casks in which they are contained not have the said packer's stamp, mark or brand upon them, or if any master of any ship or other vessel, officer or mariner, shall receive on board any such, the offender or offenders shall incur the penalty of *Ten Pounds* for each cask so shipped, to be sued for and recovered in any court of record within this Commonwealth, proper to try the same; and all such fish, beef or pork (laded or received on board as aforesaid) shall be forfeited.

Duty of such searchers and packers.

Penalty for shipping such provisions not approved.

SECT. 12. *And be it further enacted*, That if any cooper, packer or other person shall shift any fish or flesh, either on board any ship or other vessel, or on shore, after the same hath been so branded, stamped or marked by the packer, and ship

Penalty for shifting fish or flesh, after being stamped, &c. by the packer.

and export the ſame, and anew brand, ſtamp or mark the caſk whereinto ſuch proviſions are ſhifted, all perſons acting, ordering or aſſiſting therein, and being thereof convicted, ſhall forfeit and pay a ſum not exceeding *Fifty Pounds*, nor leſs than *Ten Pounds*, and pay a fine for each caſk ſo ſhifted, *Ten Pounds*. And if any perſon or perſons other than the proper officer ſhall preſume to mark, ſtamp or brand any caſk of flax-ſeed, pot-aſh, pearl-aſh, beef, pork or barreled fiſh, with the ſtamping or branding inſtrument belonging to ſuch officer, or other inſtrument made in imitation thereof, ſuch perſon or perſons on conviction thereof, ſhall forfeit and pay a ſum not leſs than *Ten Pounds*, nor more than *Fifty Pounds*, for each caſk ſo marked, ſtamped or branded, to be recovered in manner aforementioned.

No veſſel having on board flax ſeed, &c. to be cleared out by the naval-officer, until.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That no veſſel on board of which any caſk of flax-ſeed, pot-aſh, pearl-aſh, barreled pork, beef or fiſh, is ſhipped for exportation, ſhall be cleared out by the naval officer until the maſter or owner thereof ſhall have produced a certificate or certificates from ſome perſon or perſons duly appointed for the purpoſe of ſurveying, aſſaying, proving or packing the ſaid articles, that the ſame have been ſurveyed, aſſayed, proved, packed or repacked, as by this Act is required, which certificate or certificates ſhall be granted free from any expenſe.

And whereas great inconvenience and damage to merchants, and much loſs to the intereſts of the Commonwealth, ariſe for want of proper perſons being appointed in the ſea-port towns to cull dry fiſh:

Cullers of dry fiſh to be annually choſen.

SECT. 14. *Be it therefore enacted by the authority aforeſaid*, That there ſhall be annually choſen, in every ſea-port town within this Commonwealth, where fiſh is made and cured, or fold, at the annual *March* meeting, a ſuitable number of ſkilful and diſintereſted perſons, inhabitants of ſuch town, to be cullers of fiſh; and any perſon who ſhall cull fiſh without being choſen and ſworn, ſhall forfeit the ſum of *Five Pounds* for every quintal of fiſh by him culled, and ſuch cullers in culling fiſh ſhall have regard to the contract between the buyer and ſeller, with reſpect to the ſeaſon of the year wherein ſuch fiſh is cured.

Culler to be ſworn.

SECT. 15. *And be it further enacted*, That every maſter or commanding officer of any ſhip or other veſſel, who ſhall take on board any fiſh in order to tranſport the ſame beyond ſea, without having the ſame firſt ſurveyed or culled by a perſon duly appointed and under oath, ſhall forfeit and pay a fine of *Six Shillings* for each and every quintal ſo received or taken on board; and every perſon choſen into the office of a culler of fiſh, ſhall, before he enter on the duties of his office, be ſworn as other town officers are, to the faithful diſcharge of his truſt, and ſhall be allowed and paid *One Penny Half-Penny*

for

for every quintal of fiſh which he ſhall ſurvey or cull, by the purchaſer thereof. *Provided neverthelefs*, When it ſhall ſo happen that the ſworn cullers cannot be obtained, that then it ſhall and may be lawful for the buyer and ſeller to agree upon ſome meet perſon to be a culler in ſuch caſe—*Provided*, he be firſt ſworn faithfully to diſcharge the truſt. Proviſo.

SECT. 16. *And be it enacted by the authority aforeſaid*, That the cullers of fiſh already choſen in the ſeveral towns in this Commonwealth, be continued in office until their next *March* meetings reſpectively. Cullers already choſen, to be continued, until.

SECT. 17. *And be it further enacted*, That this Act, ſo far as it regulates and reſpects the exportation of barrel pork and beef, ſhall not be in force until the twentieth day of *December* next; and ſo far as this Act regulates and reſpects the exportation of barreled fiſh, it ſhall not be in force until the firſt day of *April* next. Time this act takes place.

SECT. 18. *And be it further enacted*, That penalties and forfeitures ariſing by force and virtue of this Act, ſhall be one half to the uſe of the Commonwealth, and the other half to him or them who ſhall inform and ſue for the ſame. Penalties, how appropriated.

SECT. 19. *And it is enacted*, That all laws heretofore made, ſo far as they reſpect the commodities by this Act regulated, be, and they are hereby repealed. Former laws repealed.

[This Act paſſed *November* 9, 1784. Repealed as to the inſpection and aſſay of Pot and Pearl Aſhes, *June* 17, 1791.]

An ACT, in Addition to an Act, made and paſſed the preſent Year, entitled, "An Act for repealing two Laws of this State, and for aſſerting the Right of this free and ſovereign Commonwealth to expel ſuch Aliens as may be dangerous to the Peace and good Order of Government."

Mar. 24, 1784.

WHEREAS in the laſt paragraph of the Act aforeſaid, proviſion is made as follows: "*Provided*, ſuch claimers are not included in the Act aforeſaid, made in the year one thouſand ſeven hundred and ſeventy-eight:" Preamble.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the proviſo above recited, be, and hereby is repealed. And in lieu thereof, Proviſo repealed.

SECT. 2. *Be it enacted*, That provided ſuch claimers are not included in the Act aforeſaid, entitled, "An Act to confiſcate the eſtates of certain notorious conſpirators againſt the government and liberties of the inhabitants of the late Province, now State of *Maſſachuſetts-Bay*."

And

And whereas by the Act aforesaid, made and passed in the present year, no provision is made respecting the real estates of such absentees as have been mortgaged or leased by order of Government:

Real estates of absentees, which have been mortgaged or leased by government, how considered.

SECT. 3. *Be it therefore enacted by the authority aforesaid*, That all those real estates, which on the 19th day of *April*, in the year one thousand seven hundred and seventy-five, were the property of any person or persons who are mentioned, intended or described, in an Act passed in the year one thousand seven hundred and seventy-nine, entitled, "An Act for confiscating the estates of certain persons, commonly called absentees;" and which estates have been mortgaged by order of Government, shall be considered as having been confiscated, saving only the right of redemption in the legal claimers, or in the Commonwealth where no legal claimant shall appear, upon paying and discharging the mortgage, according to the true intent and spirit of the same, which such claimants are authorized to do in the same manner as the Commonwealth might; and where such estate hath been leased by order of Government, the income and profit, use and improvement thereof, shall be considered as confiscated for the term of which the same is leased; and the tenants shall hold the same accordingly, till the end of the term, when the claimants shall have the same; and that all doings and proceedings of agents, and committees on any real estate of an absentee, or a real British subject, which has not been confiscated, done and had according to the laws and resolutions of Government, or which has been done by any other person under orders of any military commander, shall be good and valid to all intents and purposes.

Personal estate disposed of by government, to be held as confiscated.

SECT. 4. *And be it further enacted by the authority aforesaid*, That all the personal estate of the persons aforesaid, who left this State, or any other of the United States, or any of the provinces or colonies of *America*, since the fifth day of *October*, in the year one thousand seven hundred and seventy-four; and before the making of the present Constitution or frame of government of this Commonwealth, and went off to, and took the protection of the government, fleet or army of *Great-Britain*, and which personal estate hath been taken, sold, used or disposed of, by order of Government, shall be held, deemed and taken to have been confiscated; and that no person or persons of the descriptions aforesaid, shall have or maintain any action against any committee, agent or any person whatsoever, who has disposed of the same in consequence of any law, resolve or order of Government, or of the Provincial Congress, formerly holden in this then province, or of any order or resolve of the United States, or taken by the order of any military commander, to the use of this or the United States; and where any action shall be brought therefor, the party sued may plead the general issue, and give this Act in evidence.

[This Act passed *November* 10, 1784.]

An ACT for eſtabliſhing a School in the North Pariſh of *Hingham*, by the Name of *Derby-School*, and for appointing and incorporating Truſtees of the ſaid School.

[This Act paſſed *November* 11, 1784.]

An ACT empowering the Delegates of this Commonwealth, in the United States in Congreſs aſſembled, to relinquiſh to the United States certain Lands, the Property of this Commonwealth.

WHEREAS ſeveral of the States in the Union have at preſent no intereſt in the great and extenſive tract of uncultivated country, lying in the weſterly part of the United States, and it may be reaſonable that the States abovementioned ſhould be intereſted in the aforeſaid country : Preamble.

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That the delegates of this Commonwealth, in the United States in Congreſs aſſembled, or any three of the ſaid delegates, be, and they hereby are authorized and empowered, for and in behalf of this Commonwealth, to cede or relinquiſh, by authentic conveyance or conveyances, to the United States, to be diſpoſed of for the common benefit of the ſame, agreeably to a Reſolve of Congreſs of *October* the tenth, one thouſand ſeven hundred and eighty, ſuch part of that tract of land belonging to this Commonwealth, which lies between the rivers *Hudſon* and *Miſſiſippi*, as they may think proper; and to make the ſaid ceſſion in ſuch manner and on ſuch conditions as ſhall appear to them to be moſt ſuitable. Delegates authorized to cede certain lands.

[This Act paſſed *November* 13, 1784.]

An ACT for incorporating a Grant of Land, formerly made to Mr. *Cornelius Jones*, of ten thouſand Acres, called by the Name of *Myrifield*, in the County of *Hampſhire*, together with other Lands adjoining, and the Inhabitants thereon, into a ſeparate Town, by the Name of *Rowe*.

[This Act paſſed *February* 9, 1785.]

An ACT limiting the Times within which Accounts or Demands againſt this Commonwealth ſhall be exhibited for Liquidation and Allowance.

WHEREAS for the ſpeedy and uniform ſettlement of public accounts, and for the prevention of fraud, it is expedient Preamble.

pedient that accounts or demands againſt the Commonwealth, not liquidated, ſettled and allowed by Government, ſhould be ſeaſonably exhibited for liquidation and allowance:

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That all accounts or demands againſt this Commonwealth, which accrued to any individuals or private corporations previous to or during the late war, which have not been exhibited, liquidated and allowed by Government, be preſented for liquidation and allowance, on or before the firſt day of *January*, one thouſand ſeven hundred and eighty-ſix; and that all accounts or demands which have ariſen or accrued ſince the cloſe of the late war, or that ſhall hereafter accrue as aforeſaid, which have not or may not be liquidated and allowed by Government, be preſented for liquidation and allowance, within two years after the time of paſſing this Act, or otherwiſe within two years after the ſame ſhall accrue, become due and payable, and not afterwards.

Time fixed within which accounts may be preſented.

[This Act paſſed *February* 9, 1785.]

An ACT to ſet off *Samuel Luce*, *Jonathan Snow*, *Edward Wing*, *Admiral Potter* and *Reuben Hous*, from the Town of *Conway*, in the County of *Hampſhire*, and annex them to the Town of *Goſhen*, in the ſaid County.

[This Act paſſed *February* 9, 1785.]

An ACT for repealing one Act of this Commonwealth, made and paſſed in the Year of our LORD One thouſand ſeven hundred and eighty-four, entitled, "An Act for regulating the Market in *Boſton*."

[This Act paſſed *February* 11, 1785.]

An ACT making an additional Allowance to the Juſtices of the Supreme Judicial Court, for their Support.

[This Act paſſed *February* 11, 1785. Expired.]

An ACT for incorporating a certain Tract of Land, lying in the County of *Hampſhire*, into a Town, by the Name of *Heath*.

[This Act paſſed *February* 14, 1785.]

An

An ACT againſt Adultery, Polygamy and Lewdneſs.

Act regulating Marriage and Divorce, Mar. 16, 1786, ſect. 2.

WHEREAS chaſtity of behaviour, and the due obſervance of the marriage covenant, are highly conducive to the peace, good order and welfare of the community, and the violation of them productive of great evils to individuals and the public:

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That if any man or woman ſhall commit adultery, and be thereof convicted, every perſon ſo convicted, ſhall be ſet upon the gallows with a rope about his or her neck, and the other end of it caſt over the gallows, for the ſpace of one hour, be publickly whipped, not exceeding thirty-nine ſtripes, be impriſoned or fined, and bound to the good behaviour; all or any of theſe puniſhments, according to the aggravation of the offence.

Puniſhment for adultery.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That if any perſon within this Commonwealth, being married, or who hereafter ſhall marry, ſhall marry any perſon, the former huſband or wife being alive, or who ſhall continue to live ſo married, and being thereof convicted, ſhall be ſentenced to be ſet on the gallows for the ſpace of one hour, with a rope about his or her neck, and the other end thereof caſt over the gallows, be publickly whipped not exceeding thirty ſtripes, be impriſoned, fined and bound to the good behaviour; all or any of theſe puniſhments, according to the aggravation of the offence; and the party or parties ſo offending, may receive ſuch and the like proceeding, trial and execution in ſuch county where ſuch perſon or perſons ſhall be apprehended, as if the offence had been committed in the ſame county.

Puniſhment for polygamy.

SECT. 3. *Provided always,* That this Act or any thing therein contained, ſhall not extend to any perſon whoſe huſband or wife ſhall be continually remaining beyond ſea by the ſpace of ſeven years together, or whoſe huſband or wife ſhall abſent him or herſelf the one from the other, by the ſpace of ſeven years together; the one of them, in either caſe, not knowing the other to be living within that time.

Not to extend where huſband or wife ſhall be abſent ſeven years;

SECT. 4. *Provided alſo,* That this Act or any thing therein contained, ſhall not extend to the wife of any married man who ſhall willingly abſent himſelf from his ſaid wife, by the ſpace of ſeven years together, without making ſuitable proviſion for her ſupport and maintenance in the mean time, if it ſhall be in his power ſo to do.

SECT. 5. *Provided alſo,* That this Act, or any thing therein contained, ſhall not extend to any perſon that is or ſhall be at the time of ſuch marriage divorced, by ſentence of any Court whatſoever, which has or may have legal juriſdiction for that purpoſe,

Or to perſons divorced, or married within the age of conſent.

purpoſe, unleſs ſuch perſon is the guilty cauſe of ſuch divorce; nor to any perſon for or by reaſon of any former marriage had or made, or hereafter to be had or made within the age of conſent.

Puniſhment for lewd and laſcivious behaviour.

SECT. 6. *And be it further enacted by the authority aforeſaid,* That if any man and woman, either or both of whom being then married, ſhall lewdly and laſciviouſly aſſociate and cohabit together, or if any man or woman, married or unmarried, ſhall be guilty of open groſs lewdneſs and laſcivious behaviour, and being thereof convicted before the Juſtices of the Supreme Judicial Court, ſhall be puniſhed by ſitting in the pillory, whipping, fining, impriſonment and binding to the good behaviour; all or any of theſe puniſhments, according to the aggravation of the offence.

[This Act paſſed *February* 17, 1785.]

An ACT for providing and regulating of Priſons.

Gaols to be erected in towns where Courts are holden.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That the Juſtices of the Court of General Seſſions of the Peace ſhall, from time to time, aſſeſs the polls and eſtates within their ſeveral counties, in ſuch ſums as may be neceſſary to erect and keep in repair a good and ſufficient gaol in each town where a Court by law is to be holden; and to direct and order the building and repairing ſuch gaols, according to their diſcretion.

Eſcape of priſoners through the inſufficiency of gaols, or negligence of ſheriffs, &c. to whom chargeable.

In caſe the eſcape happens through the inſufficiency of gaols, Court of Seſſions empowered, &c.

SECT. 2. *Provided nevertheleſs,* That the Courts of Seſſions ſhall not aſſeſs any greater ſum of money to defray county charges, than they ſhall be authorized by the General Court to aſſeſs; and where the eſcape of any priſoner ſhall happen through the inſufficiency of the gaol, or the negligence of the Sheriff or Gaoler, the Sheriff of the county in which the eſcape happens ſhall ſtand chargeable to the plaintiff, creditor or other perſon, at whoſe ſuit or for whoſe debt he was committed, or to whoſe uſe any forfeiture was adjudged againſt ſuch priſoner; and in caſe the eſcape ſhall happen through the inſufficiency of the gaol, the Court of General Seſſions of the Peace in the county ſhall have power and authority to aſſeſs the ſum or ſums upon the polls and eſtates of the county, and to order the County Treaſurer to pay the ſame over to the Sheriff of the county; and if the Court of General Seſſions of the Peace ſhall not make ſuch aſſeſſment, and if the Treaſurer ſhall not pay ſuch ſum or ſums within ſix months next after the demand ſhall be laid before the Court of Seſſions, then the Sheriff of the county may bring his action againſt the inhabitants of ſuch county, to be heard and tried, either in that or one

of

of the next adjoining counties, at his election; and an atteſted copy of the writ being left thirty days before the ſitting of the Court, with the County Treaſurer, by the Coroner of the ſame county, ſhall be held and adjudged to be ſufficient notice of the ſuit; and the Juſtices of the Court of General Seſſions of the Peace ſhall have full power to appoint an agent or agents to appear and defend againſt ſuch action; and when it ſhall ſo happen that the ſuit ſhall be commenced in another county, and no Court of Seſſions ſhall be holden within the county ſued, between the time of the ſervice of the writ, and the ſitting of the Court before which the action is brought, the cauſe ſhall be continued one term; and all advantages ſhall be ſaved to the defendants as though they had appeared at the firſt term; and if judgment ſhall be given againſt the county, the debt may be levied by execution upon the goods, chattels or lands of any inhabitant or inhabitants of the county, who ſhall thereupon have his or their action jointly or ſeverally in like manner againſt the county, to recover the monies ſo levied of him or them.

Penalty for conveying any inſtrument or tool into priſon.

Further penalty in caſe any priſoner by means of ſuch inſtrument, &c. ſhall eſcape.

SECT. 3. *And be it further enacted*, That if any perſon ſhall, directly or indirectly, by any ways or means howſoever, without the knowledge or privity of the keeper, convey any inſtrument, tool, or other thing whatſoever, to any priſoner, or into any priſon, whereby any priſoner might break the priſon, or work himſelf unlawfully out of the ſame, every perſon ſo offending ſhall forfeit and pay ſuch fine as by the diſcretion of the Court ſhall be impoſed, not exceeding *One Hundred Pounds*, according to the nature of the cauſe of the priſoner's commitment, or ſuffer ſuch corporal puniſhment, not exceeding forty ſtripes, as the Court ſhall inflict; and if it ſhall ſo happen, that any priſoner ſhall make his eſcape by means of any inſtrument, tool or other thing ſo conveyed, without the knowledge and privity of the keeper, the perſon ſo conveying the ſame ſhall be liable to pay all ſuch ſums of money as the priſoner ſtood committed for, and ſhall have inflicted upon him all ſuch puniſhment as the eſcaped priſoner would be liable unto, if he had been convicted of the charge for which he ſtood committed, unleſs ſuch priſoner would have been liable to capital puniſhment, in which caſe, the perſon aſſiſting in ſuch eſcape ſhall be puniſhed by fine, impriſonment, whipping, pillory, or ſitting on the gallows with a rope about his neck, or any one or more of the ſaid puniſhments, as the Court ſhall think proper to inflict.

Penalty on the gaolor for a voluntary eſcape.

SECT. 4. *And be it further enacted*, That every Gaoler or Priſon-Keeper that ſhall voluntarily ſuffer any priſoner committed unto him to eſcape, ſhall ſuffer and undergo the like pains, puniſhment and penalties, as the priſoner ſo eſcaping ſhould by law, for the crime or crimes wherewith he ſtood charged, if he had been convicted thereof; and if any Gaoler or Priſon-Keeper ſhall,

shall, through negligence, suffer any prisoner accused of any crime to escape, he shall pay such fine as the Justices of the Court before whom he is convicted shall in their discretion inflict, according to the nature of the offence for which the escaped prisoner stood committed.

For a negligent escape.

Proviso.

Provided nevertheless, That if any person who stands committed for debt, shall escape from prison, and the Sheriff, the Gaoler or Prison-Keeper shall, within three months next after such escape, recover the prisoner so escaped, and return him back to prison again, then the Sheriff shall be liable to nothing further than the cost of any action that may have been commenced against him for such escape; and all fines arising upon the breach of this Act, shall be applied to the use of building and repairing the gaol or gaols in the county where the offence is committed, and shall be paid to the Treasurer of the county for that purpose.

Fines, how applied.

Sheriffs to keep a true register of all prisoners.

Sect. 5. *And be it further enacted by the authority aforesaid*, That the Sheriffs of the respective counties, from and after the passing this Act, shall keep a true and exact calendar or register of all prisoners committed to any prison under his care, and that the same shall be kept in a large bound book provided and kept for that only purpose; and in the same book shall be distinctly and fairly registered the names of all prisoners who shall from time to time be committed to prison (beginning with the names of those who may be prisoners when this law shall take place) with their names, places of abode, additions, the time of their commitment, for what cause, and by what authority committed; and of such as are committed for criminal offences, a description of their persons; and also from time to time, as any prisoner shall be liberated, the Sheriff shall also register in the same book the name and description of the person as aforesaid, the time when, and the authority by which such liberation took place, and if any prisoner escapes, the time and manner of the escape shall be noted in the said book.

Gaolers to return a list of their prisoners.

Sect. 6. *And it is further enacted*, That every Gaoler or Prison-Keeper, at the opening of the Supreme Judicial Court, or the Court of General Sessions of the Peace within the county where he keeps the gaol, shall return a list of prisoners in his custody, therein certifying the cause for which, and the persons by whom they were committed, and the names of all persons who shall be committed during the sitting of either of the said Courts, with the cause of their commitment, that the Justices of the same Courts respectively may take cognizance thereof, and as well for the Commonwealth as the parties, may proceed to make deliverance of such prisoners according to law, for the crimes proper to the jurisdiction of the same Courts respectively; and also shall have the said calendar or register of prisoners ready to be inspected by the said Courts;

and

and if any gaoler shall make default herein, he shall be fined at the discretion of the Court.

Warrants, mittimusses, &c. to be filed in their order.

SECT. 7. *And be it enacted by the authority aforesaid*, That all warrants, mittimusses, writs and instruments of any kind, or the attested copies of them, by which any prisoner shall be committed, enlarged or liberated, shall be safely kept regularly filed in their order of time, and together with the said calendar or register, shall be safely kept in a suitable box for that purpose, and upon the death or removal of any Sheriff, shall be delivered to his successor in the office, on the penalty of *Fifty Pounds*, to be paid by the Sheriff removed, or his executors or administrators, in case of the death of the Sheriff, to be recovered by any person who shall prosecute therefor, in any Court proper to try the same.

Upon removal or death of any Sheriff, to be delivered to his successor.

Apartments to be provided for debtors, separate from criminals.

SECT. 8. *And it is further enacted*, That in the prisons within the several counties of this State, there shall be provided by the Justices of the Court of General Sessions of the Peace, and at the expense of each county respectively, sufficient and convenient apartments for receiving and lodging prisoners for debt, separate and distinct from felons and other criminals; and it shall be the duty of the said Justices, at the beginning of every quarter sessions, to inquire into the state of the prisons in their respective counties, with respect to the security of such prisons from escape, the condition and accommodation of the prisoners, and shall, from time to time, take such measures as may best tend to secure them from escape, sickness and infection.

Justices to inquire into the state of prisons.

Debtors to have liberty of the gaol-yard, &c.

SECT. 9. *And be it further enacted*, That any person imprisoned for debt, either upon mean process or execution, shall be permitted and allowed to have a chamber and lodging in any of the houses or apartments belonging to such prisons, and liberty of the yard within the same in the day time, but not to pass without the limits of the prison, upon reasonable payment to be made for chamber room, to be set and established once in every year by the Court of Sessions, and not to exceed *Two Shillings* a week. *Provided*, That such prisoner shall give bond, with sufficient surety or sureties within the county, to the creditor or creditors, in double the sum for which he is imprisoned, conditioned, that from the time of executing such bond, he will continue a true prisoner in the custody of the Gaoler, and within the limits of the said prison, until he shall be lawfully discharged, without committing any manner of escape; and in order to prevent any oppression under pretence of the surety or sureties being insufficient, two disinterested Justices of the Peace, *quorum unus*, shall be called to approve of the surety or sureties, and the same being approved by them, shall be deemed sufficient; and if the creditor or creditors shall refuse to take the bond, the same shall be left with the Sheriff until the creditor or creditors shall demand the same; and upon putting

Proviso.

ting such bond in suit when the condition shall be broken, judgment shall be entered up for the whole of the penalty, and no chancery shall be allowed therein; and the Court of General Sessions of the Peace shall fix and determine the boundaries of the gaol-yards to the several gaols appertaining in their respective counties, as soon as may be after the publication of this Act.

Whereas it may at some times happen, that the Gaoler or Prison-Keeper may demand an unreasonable compensation for articles provided for a prisoner, while in prison, under his custody:

Disputes arising by unreasonable demands of gaolers, how determined.

SECT. 10. *Therefore, be it further enacted by the authority aforesaid*, That whenever any dispute about the price of such articles shall arise, the Court of General Sessions of the Peace for the county in which such gaol stands, shall be, and hereby are fully authorized to hear and finally to determine all such disputes.

[This Act passed *February* 21, 1785.]

An ACT to prevent the destroying and murdering of Bastard Children.

Preamble.

WHEREAS many lewd and dissolute women, being pregnant with bastard children, who, regardless of natural affection, and to avoid shame and escape punishment, do conceal their pregnancy, and the birth and death of such children, by means whereof many of them perish for want of necessary and usual assistance, and it cannot be known that they were not murdered:

Penalty for concealing pregnancy, &c.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That if any woman shall conceal her pregnancy, and shall willingly be delivered in secret by herself of any issue of her body, male or female, which shall, by law, be a bastard, every such woman so offending, shall pay a fine not exceeding the sum of *Fifty Pounds*, to the use of this Commonwealth, to be recovered by information or indictment in any Court proper to try the said offence, or imprisoned, not exceeding three months, at the discretion of the Court.

Penalty for concealing the death of a bastard.

SECT. 2. *And be it further enacted by the authority aforesaid*, That if any woman shall endeavour privately, either by herself or the procurement of others, to conceal the death of any such issue of her body, which, if it were born alive, would, by law, be a bastard, so that it may not come to light whether it were born alive or not, or whether it was murdered or not, in every such case, the mother so offending shall be set on the gallows, with a rope about her neck, for the space of one hour, and be further punished by being bound to the good behaviour, at the discretion of the Court.

SECT.

SECT. 3. *And be it further enacted by the authority aforesaid,* That if the Grand Jury shall, in the same indictment, charge any woman with the wilful murder of her infant bastard child, as well as with either or both the offences aforesaid, and it appear to the jury of trials that she is guilty of the murder charged, she shall be thereupon convicted of murder, and suffer the pains of death as in case of murder; but if it doth not appear to the same jury that she is guilty of the murder charged in the indictment, but only of either or both the offences first herein mentioned, then the same jury may acquit her of the charge of murder, and find her guilty of the said first mentioned offences, or either of them, as the case may be. Women charged with murder, directions in this case.

[This Act passed *February* 26, 1785.

An ACT for naturalizing *Nicholas Rousselet* and *George Smith*.

[This Act passed *February* 28, 1785.]

An ACT against Murder and Manslaughter.

SECT. 1. *BE it declared and enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That whosoever shall commit wilful murder, of malice aforethought, and being thereof convicted before the Justices of the Supreme Judicial Court, shall suffer the pains of death. Murderers to suffer death.

SECT. 2. *And be it further enacted by the authority aforesaid,* That whosoever shall commit manslaughter, and being thereof convicted before the Justices of the Supreme Judicial Court, shall be liable to be set on the gallows for the space of one hour, with a halter about his neck, and one end thereof cast over the gallows; to be branded in the forehead with the letter M; to be imprisoned, not more than twelve months; and to be bound to the good behaviour: And the same Justices shall sentence the said convict to suffer all or part of these punishments, according to the aggravation of the offence. Punishment for manslaughter.

[This Act passed *February* 28, 1785.]

An ACT altering the Name of the Town of *Richmont*, in the County of *Berkshire*.

[This Act passed *March* 3, 1785.]

An ACT against Sodomy.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That if any man shall lay with mankind as he layeth with a woman;

Perſons convicted, to ſuffer death.

a woman; or any man or woman ſhall have carnal copulation with any beaſt or brute creature, and be thereof duly convicted, the offender, in either of thoſe caſes, ſhall be adjudged guilty of felony, ſhall be ſentenced to ſuffer the pains of death, and the beaſt ſhall be ſlain, and every part thereof burned.

Such proceſs, &c. uſed, as in caſes of murder.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That ſuch order and form of proceſs ſhall be had and uſed, in trial of ſuch offenders, and ſuch judgment given, and execution done, upon the offender, as in caſes of murder.

[This Act paſſed *March* 3, 1785.]

An ACT for incorporating the Plantation of *Shapleigh*, in the County of *York*, into a Town by the Name of *Shapleigh*; and for annexing certain Lands to *Lebanon*.

[This Act paſſed *March* 5, 1785.]

An ACT againſt Burglary.

BE it declared and enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That if any perſon ſhall in the night time burglariouſly break and enter any dwelling houſe; with intent to kill, rob, ſteal, commit rape, or to do or perpetrate any other felony, the perſon ſo offending, and being thereof convicted, ſhall ſuffer the pains of death.

[This Act paſſed *March* 7, 1785.]

An ACT for directing the Uſe and Appropriation of a Charitable Donation, made in a certain Clauſe in the laſt Will and Teſtament of *Ephraim Williams*, Eſq. for the Support and Maintenance of a Free-School, in *Williamſtown*, in the County of *Berkſhire*; and for incorporating certain Perſons as Truſtees, in Order more effectually to execute the Intention of the Teſtator, expreſſed in the ſame.

[This Act paſſed *March* 8, 1785.]

An ACT againſt ſelling unwholeſome Proviſions.

WHEREAS ſome evilly diſpoſed perſons, from motives of avarice and filthy lucre, have been induced to ſell diſeaſed, corrupted, contagious or unwholeſome proviſions, to the great nuiſance of public health and peace:

Be

Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That if any person shall sell any such diseased, corrupted, contagious or unwholesome provisions, whether for meat or drink, knowing the same without making it known to the buyer, and being thereof convicted before the Justices of the General Sessions of the Peace, in the county where such offence shall be committed, or the Justices of the Supreme Judicial Court, he shall be punished by fine, imprisonment, standing in the pillory, and binding to the good behaviour, or one or more of these punishments, to be inflicted according to the degree and aggravation of the offence.

[This Act passed *March* 8, 1785.]

An ACT against Perjury, and Subornation of Perjury.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That if any person being lawfully required to depose the truth in any proceeding in a course of justice, shall commit any manner of wilful perjury, every person so offending, and being thereof convicted before the Justices of the Supreme Judicial Court, shall forfeit and pay a fine not exceeding *Three Hundred Pounds*, or be set in the pillory not more than two hours, nor less than one hour at a time, and at divers times and places, or shall be whipped at the public whipping-post, not exceeding thirty-nine stripes, on the naked back, at one or more times and places, not exceeding three times or three places, and shall suffer all or part of these punishments, according to the aggravation of the perjury, as affecting life, liberty, reputation or property; and the oath of such person so offending, and thereof duly convicted as aforesaid, shall not be received in any court of record, until such time as the judgment given against such person shall be reversed. Punishment for perjury.

SECT. 2. *And be it further enacted by the authority aforesaid,* That if any person shall commit subornation of perjury, by procuring another person to commit wilful and corrupt perjury as aforesaid, every person guilty of such subornation of perjury, and being thereof duly convicted, shall be liable to, and suffer the same forfeitures, pains, penalties and disabilities, in all respects, as abovementioned, according to the aggravation of his offence. For subornation of perjury.

SECT. 3. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully and corruptly endeavour to incite, or to procure another person to commit wilful and corrupt perjury as aforesaid, and the person so incited do not com-

Punishment for endeavouring to incite others to commit perjury.

mit such perjury, the person so corruptly endeavouring to incite and procure the committing of perjury, shall be punished by fine, not exceeding *One Hundred Pounds*, or imprisonment, not exceeding two years, or both, according to the aggravation of the offence, and binding to the good behaviour, at the discretion of the Court before whom the same is tried.

[This Act passed *March* 9, 1785.]

An ACT for the Punishment of Robbery.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That every person who shall feloniously assault, rob and take from the person of another, any money, goods, chattels or other property that may be the subject of theft, and shall be thereof convicted, shall be adjudged guilty of felony, and shall suffer the pains of death.

Punishment for robbery.

SECT. 2. *And be it further enacted by the authority aforesaid*, That if any person shall, with any offensive weapon, or by menaces, or in any forcible or violent manner, assault any person, and demand of him any goods, money or other property that may be the subject of theft, with a felonious intent to rob him, and being thereof convicted, he shall be punished by fine, not exceeding *One Thousand Pounds*, imprisonment, sitting in the pillory, whipping, sitting on the gallows with a rope about his neck, and the other end thereof thrown over the gallows, confinement to hard labour, not exceeding three years, or either of these punishments, according to the degree and aggravation of the offence.

Punishment for an assault, with a felonious intent.

[This Act passed *March* 9, 1785.]

Additional Acts, March 9, 1792, Mar. 28, 1793.

An ACT for incorporating certain Persons for the Purpose of building a Bridge over *Charles-River*, between *Boston* and *Charlestown*, and supporting the same during the Term of forty Years.

[This Act passed *March* 9, 1785.]

An ACT for incorporating a certain Tract of Land, situate between the Rivers of *Great* and *Little Ossipee*, in the County of *York*, which was settled by *Thomas Parsons* and his Associates.

[This Act passed *March* 9, 1785.]

An

An ACT for regulating and governing the Militia of the Commonwealth of *Maſſachuſetts*, and for repealing all Laws heretofore made for that Purpoſe.

[This Act paſſed *March* 10, 1785.]

An ACT for taking away the Benefit of Clergy in all Caſes whatſoever, and directing adequate Puniſhment for the Crimes where the ſame uſed to be allowed.

Preamble.

WHEREAS the plea of benefit of clergy, though it was originally founded in ſuperſtition and injuſtice, yet by long uſage and the humanity of criminal law is ſo interwoven with it, as to become very eſſential in its preſent ſyſtem; but foraſmuch as the operation of it conſiſts only in the mitigation of the puniſhment for thoſe crimes where it is allowed, which in moſt caſes operates very inadequately and diſproportionately, and for which more adequate remedies may be provided:

Benefit of clergy not allowed after the publication of this act, except.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That from and after the publication of this Law, the plea of benefit of clergy ſhall not be uſed or allowed in any cauſe whatſoever, unleſs in the proſecution for crimes committed before the paſſing this Act, for which the ſaid plea of benefit of clergy would have then been allowed.

Puniſhment for crimes where the ſame uſed to be allowed.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall be convicted of any crime wherein by law the plea of benefit of clergy was heretofore allowed, and for which, without ſuch benefit of clergy, he muſt have been adjudged to ſuffer the pains of death, ſuch perſon ſhall be ſet upon the gallows for the ſpace of one hour, with a rope about his neck, and the other end thereof caſt over the gallows, pay a fine, not exceeding *Five Hundred Pounds*, be whipped, not exceeding thirty-nine ſtripes, and be bound to the good behaviour, or ſuffer one or more of the above puniſhments, according to the aggravation of the offence; and ſo often as he ſhall be convicted of the ſame crime, ſhall ſuffer the puniſhments above mentioned, or any one or more of them, unleſs ſome other puniſhment ſhall be, or may have been, by the laws of this Commonwealth, aſſigned for ſuch crime, in which caſe the offender ſhall ſuffer as by ſuch law is or ſhall be directed.

[This Act paſſed *March* 11, 1785.]

An

An ACT for the Relief of, and to prevent Debtors being obliged to pay Intereſt on Debts now due, where a legal Tender of the ſame has been made to the Creditor, before the firſt Day of *January*, One thouſand ſeven hundred and ſeventy-ſeven, in the then circulating Currency.

[This Act paſſed *March* 11, 1785.]

An ACT againſt Arſon, and other malicious Burning.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That if any perſon, between ſun-ſetting and ſun-riſing, wilfully and maliciouſly ſhall burn the dwelling-houſe of another, or any out-building adjoining thereto, or any other building by means of which a dwelling-houſe ſhall be burnt, and be thereof convicted, ſuch offender ſhall be adjudged guilty of felony, and ſhall ſuffer the pains of death.

Burning dwelling-houſes by night, deemed felony.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall wilfully and maliciouſly, between ſun-riſing and ſun-ſetting, burn the dwelling-houſe of another, or any out-building adjoining thereto, or any other building by means of which a dwelling-houſe ſhall be burnt; or that ſhall wilfully and maliciouſly, by night or by day, burn any barn, warehouſe, ſhop, mill, malt-houſe, out-houſe, any public building, or other building whatſoever, or any ſhip or other veſſel laying within the body of the county, and be thereof convicted before the Juſtices of the Supreme Judicial Court, ſuch offender ſhall be ſentenced to hard labour for term of life or years, be ſet in the pillory at one or more times or places, not exceeding three, be whipped at one or more times or places, not exceeding four times, be impriſoned, bound to the good behaviour, or fined, or to any or all of theſe puniſhments, according to the nature and aggravation of the offence.

Puniſhment where the ſame is done between ſun-riſing and ſun-ſetting.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall wilfully and maliciouſly burn any ſtacks of corn, hay, grain, ſtraw, corn-ſtalks, flax, fences, piles of wood, boards or other lumber, and be thereof convicted as aforeſaid, ſuch offender ſhall be ſentenced to be whipped, fined, ſtand in the pillory, to be confined to hard labour, and be bound to the good behaviour, or to all or any of them, according to the nature and aggravation of the offence.

Puniſhment for wilfully burning ſtacks of hay, corn, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall wilfully and maliciouſly make a fire with deſign to communicate the ſame to the ſoil, graſs, trees, poles or under-bruſh of any other, or ſhall wilfully and maliciouſly ſuffer any fire ſo to communicate, as that by means thereof

Or for communicating fire to ſoil, graſs, &c.

thereof damage to the amount of *Ten Pounds* ſhall be done to the owner or owners of the ſoil on which ſuch damage is done, and be thereof convicted as aforeſaid, he ſhall be ſentenced to be fined, impriſoned, confined to hard labour, or bound to the good behaviour, or to all or either of the ſaid puniſhments, according to the nature and aggravation of the offence.

[This Act paſſed *March* 11, 1785.]

An ACT in addition to an Act preſcribing Forms of Writs in civil Cauſes, and directing the Mode of proceeding therein. Act, Oct. 30, 1784.

WHEREAS in the form of executions in civil cauſes, preſcribed in the ſaid Act, no proviſion is made for aſcertaining the times at which the ſaid executions are to be returned : Preamble.

SECT. 1. *Therefore be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That all executions iſſued upon any judgments in civil cauſes ſhall be made returnable at ſuch times as are provided by the ſeveral laws of this Commonwealth, any thing in the ſaid form to the contrary notwithſtanding. Executions, how returnable.

SECT. 2. *And be it enacted by the authority aforeſaid,* That in all caſes where a writ of execution ſhall iſſue after the firſt day of *May* next, there ſhall be expreſſed therein the time and place when and where the ſame ſhall be returnable. *Provided neverthelefs,* That all executions already iſſued ſince the paſſing of the ſaid Act, or which may be iſſued within thirty days after the firſt day of *April* next, agreeable to the ſaid form, ſhall be good and valid in the law, to all intents and purpoſes. Thoſe iſſued after 1ſt May next, how expreſſed. Proviſo.

[This Act paſſed *March* 14, 1785.]

An ACT for empowering and commiſſioning Agents, in behalf of the Commonwealth of *Maſſachuſetts*, to conduct and proſecute the Claims of the ſaid Commonwealth to certain Lands therein mentioned.

[This Act paſſed *March* 14, 1785.]

An ACT to authorize the Treaſurer to iſſue Certificates in certain Caſes.

[This Act paſſed *March* 14, 1785.]

An

An ACT for opening Sluice-Ways in the Mill-Dam or Dams which have or may be erected on *Presumpscut-River*, in the County of *Cumberland*, and upon any Stream or Streams which fall into the same River.

[This Act passed *March* 14, 1785.]

An ACT providing a Place of Confinement for Thieves and other Convicts to hard Labour.

[This Act passed *March* 14, 1785.]

[*See Act, June* 25, 1798. *Cession of Castle-Island to the United States.*]

An ACT empowering the Selectmen of such Towns in this Commonwealth as are already, or may hereafter be provided with a Fire-Engine or Engines, to nominate and appoint Engine-Men.

[This Act passed *March* 15, 1785. Repealed *Feb.* 7, 1786.]

An ACT against Accessaries to Crimes and felonious Assaulters.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That if any person shall aid, assist, abet, counsel, hire, command or procure any person to commit the crime of murder or rape, sodomy, arson, robbery or burglary, he is and shall be considered as an accessary before the fact to the principal offender or offenders, and being thereof convicted shall suffer the like punishment as is by law assigned for the crime to the commission of which he shall be so accessary.

Punishment for aiding and assisting persons in committing murder, &c.

SECT. 2. *And be it further enacted by the authority aforesaid,* That whosoever shall knowingly receive, harbour, conceal, maintain, assist, or relieve any person or persons, who have committed any of the crimes before-named, he is and shall be considered as an accessary after the fact, and being convicted thereof, he shall be punished by sitting on the gallows the space of one hour, with a rope about his neck, and the other end thereof thrown over the gallows, by fine, imprisonment, by sitting in the pillory, by confinement to hard labour, and binding to the good behaviour, or to one or more of these punishments, according to the nature and aggravation of the offence.

Punishment for harbouring or concealing such criminals.

SECT. 3. *And be it further enacted by the authority aforesaid,* That whosoever shall make an assault with an intent to commit murder, rape or sodomy, and be thereof convicted, shall be sentenced

tenced to be set on the gallows with a rope about his or her neck, and the other end thereof cast over the gallows, to be set in the pillory at one or more times or places, not exceeding three, to be whipped not exceeding thirty-nine stripes, be fined, suffer imprisonment, and binding to the good behaviour, or to any one or more of these punishments, according to the nature and aggravation of the offence. Punishment for felonious assaulters.

[This Act passed *March* 15, 1785.]

An ACT for the punishing and preventing of Larcenies.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That whoever shall feloniously steal any money, goods or chattels, any note of the Treasurer of this Commonwealth for the payment of money, any note or certificate of any bank or any public office, securing the payment of money to any person, or certifying that the same is due, any order entitling any person to money, any bill of exchange, bond, obligation, warrant, bill, or promissory note of hand for the payment of money or any valuable property, any record or process belonging to any court of justice, or to any public office, any book of account, receipts of money, or other article paid or delivered, adjustments and documents of any kind relating to the payment of money or other article, any indenture of apprenticeship, deed, covenant, indenture or assurance respecting any property, real or personal, and be thereof convicted, every such offender shall be punished by fine or whipping, in the discretion of the court before whom the same shall be tried, not exceeding the sum of *One Hundred Pounds*, or thirty-nine stripes. Punishment for theft.

SECT. 2. *And be it further enacted by the authority aforesaid*, That if any person shall be convicted of feloniously stealing any of the before mentioned articles from the person of another, whether privily and without his knowledge, or openly and avowedly before his face, he shall be deemed guilty of an higher species of larceny, and shall be punished by whipping, as aforesaid, or by fine, not exceeding *One Hundred and Fifty Pounds*, at the discretion of the court before whom the conviction shall be. Persons convicted of stealing from the person of another, how punished.

SECT. 3. *And be it further enacted by the authority aforesaid*, That if any person shall be convicted of the crime of theft, beside the punishment of fine or whipping, as aforesaid, he shall be sentenced to forefeit treble the value of the goods or other articles stolen, to the owner thereof; any of the articles stolen being returned to be accounted part, according to their value. And if any such offender be unable to make restitution or pay such treble damages, the Justices of the court before whom such Persons convicted of theft, to forfeit treble damages.

If unable, how sentenced.

such conviction is, may further sentence him to make satisfaction to the person from whom such articles were stolen, by service, and he shall be and hereby is empowered to dispose of the said convict in service, to any person whomsoever, for such term of time as shall be assigned by the same Justices; or they may sentence the said convict to hard labour for a term of time not exceeding three years, to take place if the owner of the articles stolen doth not sell such convict in thirty days after a sentence therefor.

Justices of the Peace authorized to determine offences; Proviso.

SECT. 4. *And be it further enacted*, That every Justice of the Peace in the county where such offence is committed, is hereby authorized to hear and determine all offences against this Law, provided that the treble value of the property stolen exceed not the sum of *Forty Shillings*, and may sentence such offender to pay a fine not exceeding the sum of *Forty Shillings*, or to be imprisoned for a term not exceeding twenty days, and to make satisfaction as above is directed.

Persons apprehended upon a charge of theft, and admitted to bail, what recognizance required.

SECT. 5. *And be it further enacted*, That when any person shall be apprehended upon a charge of the said crime of theft, and be admitted to bail, he shall not only recognize to the Commonwealth for his appearance at the court in such recognizance mentioned, to answer to the said charge, but he shall also enter into another recognizance, with sufficient sureties, to the party injured, for treble the value of the articles which he shall be charged with stealing; and if the accused person shall make default and not appear to take his trial according to his recognizance, in such case the said recognizance shall be declared forfeited, by the Court where the said accused person ought to have appeared, and the party injured shall recover treble damages against the sureties for so much as can be made to appear to be stolen, as if the offender had put himself on his trial and had been convicted; and if the accused person be committed for want of bail, and upon trial be convicted and appeal to the Court of General Sessions of the Peace, or to the Supreme Judicial Court, he shall recognize to the party injured to respond the treble damages as aforesaid, as well as to the Commonwealth to prosecute such appeal, before he is liberated.

If defaulted, the recognizance to be declared forfeited.

Persons convicted of a second theft to the value of *Forty Shillings*.

SECT. 6. *And be it further enacted by the authority aforesaid*, That if any person who now is or who hereafter shall be convicted, either before a Justice of the Peace or in any Court of General Sessions of the Peace, or Supreme Judicial Court within this Commonwealth, of the crime of theft, shall, thus standing convicted on record, steal any money, goods or chattels, or other articles as before mentioned, to the value of *Forty Shillings*, and be thereof convicted before the Supreme Judicial Court, holden within any of the counties of this Commonwealth, he shall for such offence be set upon the gallows for the space of one hour, with a rope about his neck and one end thereof cast

over

over the gallows, and be ſeverely whipped, not exceeding thirty-nine ſtripes, and be further ſentenced to pay treble the value of the articles ſtolen, to the party injured; and the ſame Juſtices may further ſentence him to make ſatisfaction to the perſon injured as aforeſaid, by ſervice as aforeſaid, if he be unable to pay the ſame, or may ſentence ſuch convict to hard labour for a term not exceeding ſix years, in like manner as is herein before provided. Puniſhment.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That if any perſon convicted of a ſecond theft in manner aforeſaid, or who has heretofore been convicted of a ſecond theft, ſtanding convicted of a former theft, ſhall ſteal any money, goods, chattels or other articles, as before deſcribed, to the value of *Three Pounds*, and be thereof convicted before the Supreme Judicial Court, in any county in this Commonwealth, he ſhall be ſet upon the gallows for the ſpace of one hour, with a halter about his neck, and one end thereof caſt over the gallows, be ſeverely whipped, not exceeding thirty-nine ſtripes, be branded on the right cheek with the letter T. and be further ſentenced to hard labour during his natural life, and wear a chain round his leg with a large clog faſtened to the end thereof. When the ſecond theft amounts to *Three Pounds*. Puniſhment.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall break up any dwelling-houſe in the day time with an intent to ſteal or to commit any felony, or enter any dwelling-houſe in the night time, without breaking the ſame, with an intent to ſteal or to commit any felony, or break up any ware-houſe, ſhop, mill, malt-houſe, barn, ſtable, out-houſe, or any public building or other building whatſoever, or any ſhip or other veſſel being within the body of the county, by night or by day, with an intent to ſteal or commit any felony, and being thereof convicted before the Supreme Judicial Court, ſhall be ſet upon the gallows for the ſpace of one hour, with a rope about his neck, and one end thereof caſt over the gallows, and be ſeverely whipped not exceeding thirty-nine ſtripes, and ſhall pay treble the value of all goods or articles ſtolen, to the perſon injured, as is before herein provided: And the Juſtices of the ſame Court may further ſentence him to make ſatisfaction for the articles ſtolen, by ſervice, as is herein before provided in caſe of theft, or ſentence him to hard labour for a term of time, not exceeding fifteen years; and if any perſon being convicted of either of theſe offences, ſhall again commit either of the ſaid offences, and be thereof convicted before the Supreme Judicial Court, he ſhall be branded on both cheeks with the letter B. and be confined to hard labour during life, as before mentioned. Perſons convicted of breaking up any dwelling-houſe in the day time, or any ſhop, &c. by night or day, with an intent to ſteal, &c. Puniſhment. Perſons twice convicted, Puniſhment.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That whoſoever ſhall comfort, aid, abet, aſſiſt, counſel, hire, command or procure any perſon to commit any of the offences herein before deſcribed, or that ſhall knowingly buy or receive any

Punishment for aiding or abetting persons in committing offences, or receiving stolen goods, &c.

any such stolen goods, chattels or articles, or that shall knowingly receive, harbour, maintain or conceal any person guilty of any of the offences before described, shall be considered as accessary to the principal offender, and shall suffer the like punishment as he might have received on a first conviction; and in case the principal offender be not known or prosecuted, any person committing any of the said crimes, whereby he becomes an accessary, may be prosecuted for a misdemeanor, and on conviction, shall suffer such punishment as the principal offender might have suffered on a first conviction.

And whereas it sometimes happens, that persons convicted of theft, and sentenced to make restitution to the party, according to law, are unable to do the same, any otherwise than by service, and their being kept in gaol may occasion great charge to the county:

No person convicted of theft to be held in prison on account of treble damages, more than 30 days, unless.

SECT. 10. *Be it therefore enacted by the authority aforesaid*, That no person convicted of theft, and sentenced for the same, shall be held in prison for or on account of the treble value awarded to the party injured, for more than the space of thirty days next after such sentence given, unless the party injured, or some one in his behalf, will become engaged, or give security to the keeper of the prison, to pay and satisfy his charge and expense in keeping such prisoner, both for time past and future, according to the rate allowed for keeping prisoners in the same gaol by the Justices of the quarter sessions; and in case the person injured shall refuse or neglect so to do, and shall not dispose of or take such prisoner in service, the keeper shall no longer be chargeable with such prisoner, but may set him at liberty; and in every such case the prisoner shall pay and satisfy the costs of court, his own fees and charges of imprisonment, and if he be unable so to do, upon application made by the keeper of the gaol to any two Justices, *quorum unus*, they are hereby empowered to determine the sum to be paid, and to order and enjoin the prisoner to make satisfaction by service, for such reasonable time as they may assign, for which time the keeper may dispose of the prisoner in service to any citizen of the United States, unless the court before whom the conviction was, shall have sentenced the said prisoner to hard labour, to take effect if the party injured doth not dispose of him as is herein before provided, in which case the said prisoner shall be delivered over by the said prison-keeper to hard labour, according to the provisions of law.

Persons indicted for any high crime, &c. by the Grand Jury, not found guilty of the whole charge, directions in this case.

SECT. 11. *And be it further enacted*, That when any person shall be indicted for any high and aggravated crime or misdemeanor by the Grand Jury, and, upon trial of the issue, it shall appear to the Petit Jury that the person accused is not guilty of the whole crime charged in the indictment, but is guilty of so much thereof as shall substantially amount to a crime of a lower nature, the Petit Jury may find the indicted person guilty

ty of such part only, and not guilty of the whole indictment, and the Court shall proceed to sentence such convict for the crime of which he is found guilty, according to law.

SECT. 12. *And be it further enacted*, That the punishment of hard labour mentioned in this or any other law assigning the same, shall be carried into execution at such place and in such manner as may be provided by the law of this Commonwealth.

[This Act passed *March* 15, 1785.]

An ACT to prevent Forgery, and for the Punishment of those who are guilty of the same.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That if any person shall willingly and deceitfully forge, make or alter, or wittingly and deceitfully cause or procure, aid, abet or command the forging, making or altering any matter of record, or any other matter of a public nature, any false deed, last will or testament, obligation or writing sealed, or any promissory note, bill of exchange, acceptance, assignment or indorsement on them, acquittance or receipt for money or goods, or any warrant, order or request for the payment of money, or delivery of goods or chattels of any kind, any certificate or accountable receipt for money or other things, any lottery-ticket, or any assurance of money or other property whatsoever, with intent to defraud any person, or who shall utter or publish, or cause, procure or abet to be uttered and published as true, any of the above false, forged or altered matters as above specified and described, knowing the same to be false, altered and forged, with intent to deceive and defraud any person, upon conviction thereof he shall be punished by setting in the pillory, at one or more times or places, cropping one ear, whipping, imprisoning, fining, and binding to the good behaviour, all or any of these punishments, according to the nature and aggravation of the offence.

Persons guilty of forgery.

Punishment.

[This Act passed *March* 16, 1785.]

An ACT for the Punishment of Rape.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That if any man shall ravish and carnally know any woman, committing carnal copulation with her by force against her will, or if any man shall unlawfully and carnally know and abuse any woman child under the age of ten years, every person offending in either of those cases before mentioned, being thereof convicted, shall be adjudged guilty of felony, and shall be sentenced to suffer the pains of death.

[This Act passed *March* 16, 1785.]

An ACT for annulling the Diſtinction between the Crimes of Murder and Petit-Treaſon.

WHEREAS it does not appear reaſonable any longer to continue the diſtinction between the crimes of murder and petit-treaſon:

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That from and after the paſſing this Act, in all caſes wherein heretofore any perſon or perſons would have been deemed or taken to have committed the crime of petit-treaſon, ſuch perſon or perſons ſhall be deemed and taken to have committed the crime of murder only, and indicted and proſecuted to final judgment accordingly; and the ſame puniſhment only ſhall be inflicted as in the caſe of murder.

[This Act paſſed *March* 16, 1785.]

An ACT for incorporating the Northerly Part of the Town of *Cummington* into a Diſtrict by the Name of *Plainfield*.

[This Act paſſed *March* 16, 1785.]

An ACT in Addition to, and for repealing certain Parts of an Act, entitled, "An Act in Addition to, and for repealing certain Parts of an Act, made and paſſed the third Day of *July*, Anno Domini One thouſand ſeven hundred and eighty-two, entitled, "An Act to remove the Obſtructions and open Paſſage-Ways for the Fiſh called Alewives, Shad, and other Fiſh, up *Neponſet River*;" and for making more effectual Proviſion for the Paſſage of the ſaid Fiſh.

[This Act paſſed *March* 16, 1785.]

An ACT directing the Proceſs in *Habeas Corpus*.

Preamble.

WHEREAS the writ commonly called the writ of *Habeas Corpus* is a writ of right to which the citizens of this Commonwealth are, by Conſtitution and the law of the land, at all times entitled, to obtain relief from every wrongful impriſonment, or unlawful reſtraint of perſonal liberty:

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That

That any perſon impriſoned in any common gaol, or otherwiſe reſtrained of his perſonal liberty, by any officer or officers, or any other perſon or perſons, for any cauſe or upon any pretence whatever, he or any perſon in his behalf may complain, in writing, to the Supreme Judicial Court of this Commonwealth in term-time in any county, or to any one or more of the Judges thereof in the vacation time of the ſaid Court; and upon ſuch complaint, and upon view of the copy of the warrant (if any there be) by which ſuch perſon ſtands committed, or upon his affidavit certified by a Juſtice of the Peace, or on the oath of the perſon applying on his behalf, or any other credible witneſs, or upon the affidavit of ſuch witneſs certified as aforeſaid, if he lives more than twenty miles from the Court or Judge applied to, that a copy of ſuch warrant has been demanded and denied; the ſaid Court in term-time, and the ſaid Judge in the vacation, hereby are reſpectively authorized and required to award a writ of *Habeas Corpus*, directed to the officer or perſon impriſoning or reſtraining the complainant, returnable forthwith to ſuch Court or Judge who awarded the ſame, except the complaint be in favour of perſons committed for treaſon or felony, or for ſuſpicion thereof, or as acceſſary to the latter before the fact, plainly and ſpecially expreſſed in the warrant of commitment, or perſons convict or in execution by legal proceſs, criminal or civil, or committed by meſne proceſs in any civil action for want of reaſonable bail, and perſons with regard to whom the benefit of the ſaid writ ſhall be ſuſpended by the Legiſlature, agreeable to the Conſtitution.

Perſons impriſoned, &c. may complain, in writing, to the Supreme Judicial Court.

Upon ſuch complaint, Court authorized to award a writ of *Habeas Corpus*, except in certain caſes.

Sect. 2. *And be it further enacted*, That ſuch writ, when awarded by the ſaid Court, ſhall be ſigned by the Clerk, teſted by the firſt Juſtice who is not party thereto, and ſealed with the ſeal thereof; but when awarded by any Judge in the vacation, ſhall only be under the hand and ſeal of ſuch Judge, and ſhall direct the place to which the complainant ſhall be brought; and the form of ſuch writ, when awarded by the ſaid Supreme Judicial Court, ſhall be as follows, *viz.*

When awarded, how teſted, &c.

(Seal.) COMMONWEALTH OF MASSACHUSETTS.

S———, ff.

To

GREETING.

Form of the Writ.

WE command you that the body of *A. B.* of in our priſon, under your cuſtody, (or by you impriſoned and reſtrained of his liberty, as the caſe may be) as it is ſaid, together with the day and cauſe of his taking and detaining, by whatſoever name the ſaid *A. B.* ſhall be called or charged, you have before our Juſtices of our Supreme Judicial Court, holden at *B.* within and for the county of *S.* immediately after the receipt of this writ, to do and receive what our ſaid Juſtices ſhall then and there conſider concerning him (or her) in this behalf; and have

have there this writ. Witneſs, W. C. Eſq. at *B.* this day of in the year of our LORD 17

Clerk.

Supreme Judicial Court, in term-time, or Judges in the vacation, not reſtrained from bailing any perſon.

And the like form ſhall be uſed by the Judge, *mutatis mutandis*, when ſuch writ ſhall be awarded by him: *Provided*, That nothing in this Act contained ſhall be conſtrued to hinder or reſtrain the ſaid Supreme Judicial Court, in term-time, or any one or more Judges thereof, in the vacation, from bailing any perſon wherever and for whatever offence committed, at their diſcretion, whenever the circumſtances of the caſe ſhall appear to require it;—perſons committed by the Governor and Council, Senate, or Houſe of Repreſentatives, agreeable to, and for the cauſes mentioned in the Conſtitution, always excepted.

Officer or perſon to whom the writ is directed, ordered to receive the ſame; and upon payment or tender of charges, to have the body of the complainant before the Court or Judge awarding the writ, within a fixed time.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That when any perſon ſhall bring and offer ſuch writ of *Habeas Corpus* to the officer or perſon to whom the ſame ſhall be directed, he ſhall receive the ſame; and upon payment or tender of ſuch charges for bringing the complainant from the place of impriſonment, as the Court or Judge who grants the writ ſhall order, if the perſon complaining be confined in a common gaol, or under the cuſtody of an officer, otherwiſe, without ſuch payment or tender, to the place mentioned in the writ, ſuch officer or perſon ſhall have the body of the complainant before the Court or Judge awarding the writ (unleſs committed and detained for ſome one or more of the cauſes aforeſaid) at the place therein mentioned, within three days, if within twenty miles from the place of impriſonment; if more than twenty, but within one hundred miles, then within ten days; if above one hundred miles, then within twenty days after the receipt thereof; and ſhall then return the ſame, and certify thereon the true and all the cauſe or cauſes of his or her taking and detaining.

Writs awarded by any Judge in the vacation, not returned before the ſitting of the Court, may be returned, &c. by the Judge.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That if, after the awarding ſuch writ by any Judge of the ſaid Supreme Judicial Court, in the vacation, but before the return thereof the ſaid Court ſhall ſit in any county, the ſaid writ, with the body of the complainant, and cauſes of taking and detaining, may be returned, had and certified to the ſaid Court by the Judge who awarded the ſame: But if, after awarding ſuch writ by the ſaid Court, in term-time, but before the return thereof the ſaid Court ſhall riſe, or be adjourned, the ſame, with the body of the complainant, and cauſes of taking and detaining, ſhall be returned, had and certified before ſome Judge of the ſaid Supreme Judicial Court.

Perſons brought before the Court or any Judge, by writ of *Habeas Corpus*, what proceedings ſhall be had.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That when any perſon ſhall be brought, by writ of *Habeas Corpus* as aforeſaid, before the ſaid Court, or any Judge thereof, ſuch Court or Judge ſhall, within three days after, proceed to examine the ſaid cauſes; and if committed for an offence or cauſe bailable by law, they ſhall bail him by recognizing him with ſufficient

ſufficient ſurety or ſureties in a reaſonable ſum, having regard to his quality and circumſtances, and the nature of the offence, to appear at ſuch Court as ſhall have cognizance of the offence; and ſhall certify the recognizance into ſuch Court, if committed upon meſne proceſs in any civil action for want of bail, and the bail required ſhall appear exceſſive, it ſhall be aſcertained what bail is reaſonable, and he ſhall be diſcharged on giving the ſame: But if it ſhall appear that the complainant is impriſoned or reſtrained without due order of law, or ſufficient cauſe, he ſhall be diſcharged from ſuch commitment or reſtraint.

Penalty when any officer neglects after demand made, to deliver a copy of the warrant.

SECT. 6. *And be it further enacted*, That if any officer, in whoſe cuſtody any priſoner ſhall be, ſhall not, within ſix hours after demand made, deliver ſuch priſoner a true copy of the warrant or proceſs by which he ſtands committed, ſuch officer ſhall forfeit, to the party grieved, the ſum of *Fifty Pounds*.

Officers or perſons to whom writs are directed, refuſing to receive the ſame or yield obedience,

Penalty.

SECT. 7. *And be it further enacted*, That if any officer or perſon, to whom any writ of *Habeas Corpus* ſhall be directed, ſhall refuſe to receive the ſame, or, after receipt thereof, ſhall refuſe or neglect to yield ſuch obedience thereto as this Act requires (the complainant performing the conditions required) unleſs prevented by the ſickneſs of the priſoner, or other neceſſity, he, for ſuch refuſal or neglect, in each and every particular, ſhall forfeit, to the party grieved, the ſum of *One Hundred Pounds*; and for any falſe return to ſuch writ, ſhall be further liable to the action of the party.

Court or Judge may further puniſh diſobedience as for a contempt.

SECT. 8. *And it is further enacted*, That the Court or Judge reſpectively may further puniſh every diſobedience to ſuch writs as for a contempt, and compel obedience thereto, by proceſs of attachment.

And in order to prevent any attempts that might be made to deprive any priſoner of the benefit of his *Habeas Corpus*, by ſhifting the cuſtody of ſuch priſoner from one priſon or officer to another, or ſending him away:

Priſoners ſhall not be delivered from one officer to another, nor be removed from one county to another, unleſs by *Habeas Corpus*, &c.

SECT. 9. *Be it enacted by the authority aforeſaid*, That every perſon, duly ordered to be committed for any criminal or ſuppoſed criminal matter, ſhall be carried, as ſoon as may be, and confined in ſome common gaol, and not elſewhere (except perſons ſent to the work-houſe or houſe of correction for due cauſe) and ſhall not be delivered from one officer to another, except for the more eaſy and ſpeedy conveyance of the priſoner to ſuch gaol, nor be removed, without his conſent, from one county to another, unleſs by *Habeas Corpus*, or ſome other legal writ, under the penalty of forfeiting, for every offence, to the party grieved, the ſum of *One Hundred Pounds*.

Perſons tranſporting any ſubject of this Commonwealth to any place without the limits of the ſame, without his conſent,

SECT. 10. *And be it further enacted*, That if any perſon ſhall tranſport, or carry, or cauſe to be tranſported or carried, any ſubject of this Commonwealth, or other perſon lawfully reſiding and inhabiting therein, to any part or place without the limits of the ſame, by land or water, without his conſent or voluntary agreement;

agreement; or in order to remove such person from one part of the State to another part of the same, except for the purpose of defending the same in time of war, agreeable to the Constitution, or except such person be sent by due course of law, to answer for some criminal offence committed in some other of the United States of *America*, every person so offending, and every person aiding and abetting the same, being duly convicted thereof before the Supreme Judicial Court, shall be punished by fine not exceeding *Five Hundred Pounds*, by whipping not exceeding thirty-nine stripes, and imprisonment not exceeding two years, or any one or more of those punishments, at the discretion of the said Court, and be further liable to the action of the party grieved.

Punishment.

Masters of vessels carrying out of this government any person under the age of 21 years,

Penalty.

SECT. 11. *And be it further enacted by the authority aforesaid*, That every master or commander of any outward-bound ship or vessel, that shall hereafter carry or transport out of this Government any person under the age of twenty-one years, or any apprentice, or any indented servant, to any parts beyond sea, without the consent of his parents, master, or guardian, shall forfeit and pay the sum of *Fifty Pounds*; one moiety to the use of this Government, and the other moiety to him or them that shall sue for the same; and be further liable for the damages sustained by the parent, master, or guardian, in a special action of the case.

No person enlarged by *Habeas Corpus* shall again be imprisoned for the same cause unless indicted therefor, &c.

SECT. 12. *And be it further enacted by the authority aforesaid*, That no person enlarged by *Habeas Corpus* shall be again imprisoned or restrained of his liberty for the same cause, unless he shall be indicted therefor, or convicted thereof, or shall neglect to find bail when ordered thereunto by some court of record. *Provided*, That no penalty established by this Act shall be construed to bar any action at common law for false imprisonment or unlawful restraint. And when any person shall be unlawfully carried out of the Government, or imprisoned in a secret place, any other person shall be permitted to appear for him in any action brought in his name; provided such person shall stipulate for the payment of costs, as the Court shall direct.

Any person held in prison upon suspicion of having committed a capital crime shall be bailed or discharged, if not indicted at the second term.

SECT. 13. *And be it further enacted*, That any person who shall be held in prison upon suspicion of having committed a crime for which he may have sentence of death passed upon him, shall be bailed or discharged, if he is not indicted at the second term of the sitting of the Supreme Judicial Court in the county where the crime is alleged to have been committed, when there are two terms a year in such county: And in such counties as have but one Supreme Judicial Court in a year, the defendant shall be bailed or discharged, if he is not indicted at the first term; provided such person shall have been held in prison for the space of six months next preceding the day of the Court's sitting. And when any person shall be held in prison under

under indictment, he shall be tried or bailed at the first term next after his indictment, if he demands the same, unless it shall appear to the Court that the witnesses, on behalf of the Government, have either been enticed away, or are detained by some inevitable accident from attending. And all persons under indictment for felony, shall be bailed or tried at the second term after the bill shall be returned, if they demand it.

Persons held in prison under indictment, shall be tried or bailed at the first term, if they demand the same.

[This Act passed *March* 16, 1785.]

An ACT in Addition to an Act, entitled, "An Act empowering the Delegates of this Commonwealth, in the United States in Congress assembled, to relinquish to the United States certain Lands, the Property of this Commonwealth."

WHEREAS by the Act aforesaid, three delegates representing this State in Congress, are necessary to make the cession aforesaid, and it may be necessary that the said business should be performed by a less number of the said delegates:

Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That any two delegates representing this Commonwealth in Congress, be, and hereby are authorized and empowered, to do and perform all matters and things which by the Act aforesaid might be done and performed by any three delegates as aforesaid, any thing in the aforesaid Act notwithstanding.

[This Act passed *March* 17, 1785.]

An ACT for dividing the Town of *Granville* into three separate Parishes.

[This Act passed *March* 17, 1785.]

An ACT imposing Duties on licensed Vellum, Parchment and Paper.

[This Act passed *March* 18, 1785. Repealed *July* 2, 1785.]

An ACT for preventing common Nuisances.

Addit. Act, Mar. 4, 1800.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That the Selectmen of *Boston*, *Salem*, *Newbury-Port* and *Charlestown*, respectively, and of every other town in this Commonwealth, where the Selectmen thereof, together with any two Justices of the Peace in the same county, shall judge such regulation

Selectmen with two Justices to assign places for killing creatures for meat, distilling spirits, &c.

regulation to be neceſſary, ſhall from time to time, as occaſion ſhall be, aſſign ſome certain places for the exerciſing of any of the trades or employments of killing creatures for meat, diſtilling of ſpirits, trying of tallow or oil, currying of leather, and making earthen-ware, and forbid and reſtrain the exerciſe of either of them in other places not ſo approved and allowed; and all aſſignments of ſuch houſes or places by Selectmen, with the aſſent of two or more Juſtices, for the exerciſe of any of the occupations aforeſaid, ſhall be entered in the town book where ſuch Selectmen reſpectively belong; and alſo made known by having notifications thereof poſted up in ſome public places in the ſame town.

When any houſe aſſigned becomes a nuiſance, Court of Seſſions to cauſe inquiry to be made thereinto, and to ſuppreſs ſuch nuiſance.

SECT. 2. *And be it further enacted*, That when any houſe aſſigned for the exerciſing of either of the aforeſaid trades or employments becomes a nuiſance by reaſon of offenſive and ill ſtenches proceeding from the ſame, or becomes otherways hurtful or dangerous to the neighbourhood or travellers, it ſhall and may be lawful to and for the Court of General Seſſions of the Peace, within the county, to cauſe inquiry to be made thereinto by a jury, and to ſuppreſs ſuch nuiſance by prohibiting and reſtraining the further uſe thereof for the exerciſe of either of the aforeſaid trades or employments, under a fine not exceeding *Three Pounds* a month, to the uſe of the poor of the town; or by cauſing ſuch nuiſance to be removed or prevented, as the ſaid Juſtices in Seſſions, in their diſcretion, ſhall think expedient and neceſſary.

Penalty for making uſe of houſes &c. other than ſuch as are or may be aſſigned.

SECT. 3. *And be it further enacted*, That if any diſtiller, tallow-chandler, manufacturer of oil, currier, butcher or potter, ſhall make uſe of any houſe or place, other than ſuch as are or may be aſſigned and permitted in conſequence of this Act, for the exerciſe of the employments aforeſaid, or any of them, the perſon ſo offending ſhall forfeit and pay a fine of *Five Pounds*, one half thereof for the uſe of this Commonwealth, and the other half part for the uſe of him or them that ſhall proſecute and ſue therefor, by action of debt, in the Court of Common Pleas; and if convicted on the preſentment of a Grand Jury in the Court of Seſſions or Supreme Judicial Court, the whole penalty ſhall enure to the uſe of the Commonwealth; and in either caſe the offender ſhall alſo enter into recognizance in ſuch ſum as the ſame Court ſhall order, not to improve ſuch building for either of the ſaid purpoſes for the term of three years then next; and in default of entering into ſuch recognizance, to be committed to the common gaol; or ſuch building may be taken down by the order of the ſame Court, as being a common nuiſance, and the materials, or ſuch part of them as may be neceſſary, ſold at public auction, to defray the expenſe and charges; and in caſe the materials ſhall be inſufficient, the reſidue of the charges to be levied by diſtreſs and ſale of the offender's goods and chattels.

SECT.

Fences, &c. set up on public landing places, without permission, esteemed nuisances.

SECT. 4. *And be it further enacted by the authority aforesaid*, That all fences or buildings set up and erected on lands now used and improved as public landing places, or such as may be hereafter laid out and appropriated to that use, without lawful permission therefor, shall be esteemed nuisances, and may be abated as such.

[This Act passed *June* 7, 1785.]

An ACT against Hawkers, Pedlars, and petty Chapmen.

Addit. Act, June 21, 1799.

Preamble.

WHEREAS inconveniencies arise to trade by hawkers, pedlars and petty chapmen, passing to, from and through the country, to vend goods, wares and merchandize:

Hawkers, pedlars, &c. going from town to town to sell goods, Forfeitures.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That every hawker, pedlar, petty chapman or other person going from town to town on foot, or with a horse or horses, or otherwise, carrying to sell, or exposing to sale, any wares, goods or merchandize, within this Commonwealth, shall forfeit a sum not exceeding *Four Pounds*, nor less than *Twenty Shillings*; also one quarter part of all such goods, wares or merchandize by him or them exposed to sale, or so conveyed or transported as aforesaid, to him or them that shall prosecute therefor, by information or complaint before the Court of General Sessions of the Peace in the same county.

Proviso.

Provided nevertheless, That nothing herein shall prohibit or hinder any person, who is the real worker or maker of any goods or wares, or his servants or agents, from carrying abroad, exposing to sale, or selling any of the said goods or wares of his own making, or other articles manufactured within this Commonwealth, in any fair, market or elsewhere, or from selling any fish, fruits or provisions; or any tinker, cooper, glazier, or mender, or other person, from going about and carrying with him proper materials for mending the things usually made or mended in the exercise of his trade. And any Justice of the Peace, upon complaint to him made of any such offence, may arrest or summon before him the person or persons complained against, and order him or them to recognize, with sufficient surety or sureties, to appear and answer the complaint or information that may be exhibited against him or them, before the next Court of Sessions of the Peace in the county where the offence is said to be committed; and for want of sufficient surety, to commit such offender or offenders to the common gaol of the county; and also to secure and detain all such goods, wares and merchandize until the trial. *Provided*, The complainant will enter into recognizance with surety before the same Justice, to the supposed offender, in a sufficient sum, to pay cost

Justices of the Peace to summon persons complained against, and order them to recognize.

Proviso.

in case the complainant shall fail of prosecuting or convicting the offender; and the Court of General Sessions of the Peace may assess costs upon the trial for or against the complainant, as the case may require; and all taverners, ale-house keepers, common victuallers or retailers, that shall knowingly entertain any hawker, pedlar or petty chapman, or other trading person aforesaid, for the space of twelve hours, shall forfeit and pay the sum of *Twenty Shillings* for every six hours after the first twelve (unless the departure of such hawker, pedlar or petty chapman shall be prevented by means of sickness, or any other unavoidable necessity) to him or them who will prosecute and sue therefor by action of debt.

Penalty for entertaining hawkers, &c.

[This Act passed *June* 9, 1785.]

An ACT to prevent Damage being done by Neat-Cattle and Horses on *Pocha-Beach*, (in the Town of *Eastham*) and Meadow thereunto adjoining.

[This Act passed *June* 14, 1785.]

An ACT for annexing a Gore of Land lying between the Towns of *Worcester* and *Sutton*, to the Town of *Worcester*.

[This Act passed *June* 14, 1785.]

An ACT for granting a Lottery for the repairing of *Leicester* Academy, and making additional Buildings thereto.

[This Act passed *June* 14, 1785.]

An ACT providing a speedy Method for doing Justice, when, through Mistake, Executions are levied on Real Estate not belonging to the Debtors.

Preamble.

WHEREAS it has happened that executions have been or may be extended and levied on real estate for the purpose of satisfying judgments of Courts, and after the levying such executions, it may appear that the real estate levied upon did not at the time of extending and levying such execution belong to the debtor, and thereby the creditor may be deprived of his just debt, or be at great expense in recovering it: Therefore,

Be

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That in such cases, upon the application of the creditor to the Justices of the Court from whence such execution issued, such Justices may order a writ of *Scire Facias* to issue against such debtor, requiring him to appear before said Court, and shew cause, if any he has, why an alias execution should not issue against him for debt and costs; and if such debtor, being duly summoned, shall neglect to appear in obedience to such writ, or appearing, shall not shew sufficient cause why an alias execution should not issue against him, the Court shall thereupon order an alias execution against such debtor for debt and costs; and the doings by virtue of the former execution shall be considered as void and of no effect in law; but if it shall appear to the said Court that the creditor had no just cause for such application, the debtor shall recover against the creditor double costs, and the Court shall award execution accordingly.

When through mistake executions are levied on real estate not belonging to the debtors, Justices may order a writ of *Scire Facias* against such debtors.

Provided nevertheless, That no application by any creditor shall be sustained after the expiration of two years from the time of extending and levying execution as aforesaid.

Proviso.

Proviso repealed, March 7, 1791.

[This Act passed *June* 14, 1785.]

An ACT for incorporating a certain Tract of Land lying in the County of *Hampshire*, being Part of the Towns of *Northampton* and *Southampton*, into a District, by the Name of *Easthampton*.

[This Act passed *June* 17, 1785.]

An ACT for the Regulation of Navigation and Commerce.

See Acts, Nov. 29, 1785.

[This Act passed *June* 23, 1785.]

An ACT for erecting the westerly Part of the Town of *Westminster*, the southwesterly Part of *Ashburnham*, the southeasterly Part of *Winchendon*, and the easterly Part of *Templeton*, in the County of *Worcester*, into a Town, by the Name of *Gardner*.

[This Act passed *June* 27, 1785.]

An ACT for incorporating certain Lands belonging to a Number of Inhabitants of the Town of *Springfield*, lying on the *Pine-Plain*, in said Town.

[This Act passed *June* 27, 1785.]

An

An ACT to authorize the United States, in Congreſs aſſembled, to appoint Commiſſioners to complete the running the Line of Juriſdiction between the Commonwealth of *Maſſachuſetts* and the State of *New-York*, on the eaſterly Part of the State of *New-York*.

[This Act paſſed *June* 29, 1785.]

An ACT for the filing and recording of Wills proved without this Government, and for taking Affidavits in writing for the Probate of Wills in certain Caſes.

Copy of any will proved without this government, filing and recording thereof ſhall be of the ſame force as of an original will.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That where the copy of any will which has been proved and allowed in any Probate Court in any of the United States, or in any foreign ſtate or kingdom, ſhall be directed to be filed and recorded in any Probate Court in this Government purſuant to this Act, the filing and recording thereof ſhall be of the ſame force and effect as the filing and recording of an original will proved and allowed in the ſame Court of Probate; and the ſaid Judge may thereupon proceed to take bonds of the executor, or grant adminiſtration of the ſaid teſtator's eſtate lying in this Government, with the will annexed, and ſettle the ſaid eſtate in the ſame way and manner as by law he may or can upon the eſtates of teſtators, whoſe wills have been duly proved before him.

Perſons intereſted in wills proved without this government, deſiring the ſame may be filed; directions how to proceed.

SECT. 2. *And be it further enacted,* That when the executor or any other perſon intereſted in a will that has been proved and allowed in a Court of Probate in any of the United States, or in a Court of Probate in any other ſtate or kingdom, purſuant to the laws of ſuch ſtate or kingdom, ſhall produce a copy of ſuch will, with a copy of the probate thereof, under the ſeal of the Court where the ſame will has been proved and allowed, unto any Judge of Probate in any county in this Government, where the teſtator had eſtate, real or perſonal, whereon the ſame will may operate, and ſhall, in writing, deſire the ſame may be filed and recorded in the Probate office in the ſame county purſuant to this ſtatute, the ſaid Judge ſhall aſſign a time and place for taking the ſame into conſideration, and ſhall cauſe notice thereof to be made in ſome public newſpaper, three weeks ſucceſſively, thirty days at the leaſt before the time aſſigned, to the end that any perſon may appear and ſhew cauſe againſt the filing and recording the ſame; and if at the time aſſigned no objection is made, or none in the judgment of the ſaid Judge ſufficient to prevent it, the ſame Judge may cauſe

cauſe the ſame copy to be filed in the regiſtry of the ſaid Court of Probate, and direct the ſame to be alſo there recorded: *Saving always*, an appeal to any perſon apprehending himſelf injured thereby to the Supreme Court of Probate, as in other probate matters.

When an original will ſhall be offered for probate, and the witneſſes live more than thirty miles diſtant, depoſitions may be taken in ſuch caſes.

SECT. 3. *And be it further enacted*, That when an original will ſhall be offered for probate before any Court of Probate in this Government, and the witneſſes thereunto live out of the Government, or more than thirty miles diſtant, or by reaſon of age or indiſpoſition of body are unable to appear and give evidence before the Court, in every ſuch caſe, the depoſition of ſuch witneſs in writing, taken before any perſon or perſons duly authorized by *dedimus poteſtatem* from ſuch Probate Court, ſhall have the ſame force and effect as though the witneſs was preſent, and teſtified *viva voce* before the Court.

Proviſo.

Provided always however, Before the probate of any will ſhall be allowed from the evidence of affidavits, ſuch proceedings ſhall be had in all reſpects as in this Act are provided reſpecting wills previouſly proved and allowed in a Court of Probate without this Commonwealth; and appeals in all ſuch caſes ſhall be allowed, as is provided for in other probate matters.

Further proviſo.

SECT. 4. *And it is further provided*, That nothing in this Act ſhall be conſtrued to make valid any will or codicil that is not atteſted and ſubſcribed in the manner the laws of this Commonwealth direct, nor to give operation and effect to the will of an alien different from that which ſuch will would have had before the paſſing this Act.

[This Act paſſed *June* 29, 1785.]

An ACT determining the Times and Places for holding Judicial Courts in the County of *Berkſhire* a limited Term.

[This Act paſſed *June* 30, 1785.]

An ACT in Addition to, and for repealing certain Parts of an Act paſſed in the Year of our LORD One thouſand ſeven hundred and eighty-three, entitled, "An Act to regulate the catching Salmon, Shad and Alewives, and to remove and prevent Obſtructions in *Merrimack River*, and in the other Rivers and Streams running into the ſame, within this Commonwealth, and for repealing ſeveral Acts heretofore made for that Purpoſe."

[This Act paſſed *June* 30, 1785.]

An

An ACT to prevent Damage from Fire being communicated from Chocolate-Mills and Machines for roaſting Cocoa, in the Town of *Boſton*.

[This Act paſſed *June* 30, 1785.]

An ACT authorizing and empowering the Delegates repreſenting this Commonwealth in the United States in Congreſs aſſembled, to ſubſcribe and ratify an Alteration of Part of the eighth Article of the Confederation and Perpetual Union of the United States of *America*.

[This Act paſſed *July* 2, 1785.]

An ACT in Addition to an Act paſſed the tenth Day of *July*, *Anno Domini* One thouſand ſeven hundred and eighty-three, entitled, "An Act laying Duties of Impoſt and Exciſe on certain Goods, Wares and Merchandize, therein deſcribed, and for repealing the ſeveral Laws heretofore made for that purpoſe;" and alſo another Act paſſed the firſt Day of *July*, One thouſand ſeven hundred and eighty-four, entitled, "An Act in Addition to, and for the Explanation of an Act, entitled, "An Act laying Duties of Impoſt and Exciſe on certain Goods, Wares and Merchandize, therein deſcribed, and for repealing the ſeveral Laws heretofore made for that Purpoſe," and for the Encouragement of Agriculture and Manufactures, and for promoting Induſtry, Frugality and Economy.

[This Act paſſed *July* 2, 1785.]

An ACT for repealing a Law of this Commonwealth, entitled, "An Act impoſing Duties on licenſed Vellum, Parchment and Paper," and for impoſing other Duties on certain Papers, Commiſſions, Inſtruments and Proceſſes.

[This Act paſſed *July* 2, 1785. Repealed.]

An

An ACT for reviving and continuing ſundry Laws that are expired and near expiring.

[This Act paſſed *July* 2, 1785.]

An ACT incorporating certain Lands in *Weſt-Springfield*, into a common Field.

[This Act paſſed *October* 28, 1785.]

An ACT making additional Proviſion for the Puniſhment of Frauds and Miſdemeanors.

Preamble.

WHEREAS offenders, convicted of certain offences, may by law be committed to hard labour, in the houſe of correction; and the ſeveral gaols in the ſeveral counties, where no other place or places are ſpecially provided, are declared to be the houſes of correction; which are by experience found inconvenient for the purpoſe:—And whereas *Caſtle-Iſland*, in the harbour of *Boſton*, is by law appointed a place for the employment of perſons ſentenced to hard labour, for larcenies in certain caſes:

Perſons under ſentence, to be removed to Caſtle-Iſland.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That all perſons who are now under ſentence to be confined to hard labour, for a term of one year or more in the houſe of correction, ſhall be removed to *Caſtle-Iſland*, in the harbour of *Boſton*, there to be employed in hard labour, and kept as the law directs, during the reſidue of the term for which they are ſentenced as aforeſaid; by a proceſs iſſuing from the ſame Court which paſſed ſuch ſentence:

Proviſo.

Provided, Such reſidue ſhall exceed the periods hereafter expreſſed, to be computed from the time of iſſuing the proceſs aforeſaid; *that is to ſay*, in the counties of *Hampſhire*, or *Berkſhire*, the term of twelve months, and in any other county, the term of ſix months.

Juſtices of the Supreme Judicial Court authorized to ſentence at diſcretion, in certain caſes.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That in all ſuch caſes where the Juſtices of the Supreme Judicial Court are authorized by the laws of this Government now in force, to ſentence any perſons convicted before them of any offence, to hard labour in the houſe of correction as aforeſaid, it ſhall and may be lawful for the Juſtices of the ſame Court, at their diſcretion, to ſentence all ſuch convicts to hard labour generally, for and during the term only for which they might have been ſentenced to be confined to hard labour in the houſe of correction, before the making of this Act, and for that purpoſe

pose to order them to be removed to *Castle-Island*, in the harbour of *Boston*, or such other place as shall be by law provided.

Persons convicted of forgery, may be sentenced to hard labour.

SECT. 3. *And be it further enacted by the authority aforesaid*, That when any person shall be hereafter convicted before the Supreme Judicial Court, of any of the offences mentioned or described in an Act, entitled, "An Act to prevent forgery, and for the punishment of those who are guilty of the same," passed the sixteenth of *March*, one thousand seven hundred and eighty-five, the Justices of the same Court may, in addition to, or in lieu of the pains and penalties mentioned in the same Act, sentence such offenders to hard labour, for a term not exceeding seven years upon the first conviction, fourteen years upon the second conviction, and during life upon the third conviction.

Whereas idleness is often the parent of fraud and cheating, and confinement to hard labour may be a means of reclaiming such offenders, as well as a proper punishment for such offences:

Persons convicted of frauds or cheats, may be sentenced to hard labour.

SECT. 4. *Be it therefore enacted by the authority aforesaid*, That whenever any person shall be hereafter convicted before the Justices of the Supreme Judicial Court, of any gross frauds or cheats, other than those herein before mentioned or referred to, the said Justices may, at their discretion, in addition to, or in lieu of such pains and penalties as they may by law award and order to be inflicted upon such offenders, sentence them to be confined to hard labour for a term not exceeding seven years.

And whereas, in and by an Act, entitled, "An Act for the establishment of a National Bank," &c. passed *March* the eighth, one thousand seven hundred and eighty-two, the offences therein described are made felony of death without benefit of clergy:

Offences described in an act establishing a National Bank, how punished.

SECT. 5. *Be it therefore enacted by the authority aforesaid*, That if any person shall be hereafter convicted of any of the offences therein mentioned, the Court before whom such conviction shall be had, shall not proceed to pass sentence of death upon such convict; but in lieu thereof, sentence him to hard labour for term of life, or years, to stand in the pillory, at one or more times or places, not exceeding three; to have one ear cut off; to be whipped at one or more times or places, not exceeding four times, and thirty-nine stripes at a time; to sit upon the gallows with a rope about his neck; to be branded in the forehead with the letter F; to be imprisoned not exceeding one year; to be fined at the discretion of the Court; to be bound to the good behaviour; or to any one or more of them, according to the nature and aggravation of the offence.

[This Act passed *November* 1, 1785.]

An

An ACT giving Remedies in Equity.

Addit. Act, Mar. 1, 1799.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That in all causes brought before the Supreme Judicial Court of this Commonwealth, or before any Court of Common Pleas, to recover the forfeiture annexed to any articles of agreement, covenant, contract, or charter-party, bond, obligation or other specialty, or for forfeiture of real estate upon condition, by deed of mortgage or bargain and sale, with defeasance, when the forfeiture, breach, or non-performance, shall be found by Jury, by the default, or the confession of the defendant, or upon demurrer, the Court before which the action is shall make up judgment therein for the plaintiff, to recover so much as is due according to equity and good conscience; but in real actions on mortgage, or bargain and sale with defeasance, the judgment shall be conditional, that if the mortgager or vender, his heirs, executors or administrators, shall pay unto the mortgagee or vendee, his executors or administrators, such sum as the Court shall adjudge due, within two months from the time of entering up judgment, with interest, then the same mortgage, or deed of bargain and sale, shall be void and discharged, otherwise that the plaintiff shall have his writ of possession.

How courts shall make up judgment in causes brought to recover forfeitures.

How judgment shall be made up in real actions, on mortgage, &c.

SECT. 2. *And be it further enacted*, That all real estates conveyed or pledged by mortgage, or bargain and sale, with defeasance, shall be redeemable by the mortgager or vender, his heirs, executors, administrators or assigns, on paying the monies borrowed thereon, with interest, or performing the condition on which the same was mortgaged or conveyed, deducting the rents and profits, the mortgagee, or any under him, may have received over and above the repairs and improvements made by him, unless the mortgagee, or person claiming under him, hath by process of law, or by open and peaceable entry, made in the presence of two witnesses, taken actual possession thereof, and continued that possession peaceably three years.

Real estates conveyed by mortgage, &c. how redeemable.

[This Act passed *November* 4, 1785.]

An ACT regulating the Admission of Attornies.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That no person shall be admitted an Attorney of any Court in this Commonwealth, unless he is a person of good moral character, and well affected to the Constitution and Government of this Commonwealth, and hath had opportunity to qualify himself for the office, and hath made such proficiency

as

Perſons, before admiſſion as Attornies, to take an oath.

as will render him uſeful therein; and no perſon ſhall be admitted to practiſe as an Attorney in any Court of Juſtice within this State, until he ſhall in open Court have taken and ſubſcribed the declaration preſcribed in the Conſtitution of this Commonwealth, and an oath, in tenor following:

Form of the oath.

You ſolemnly ſwear, that you will do no falſehood, nor conſent to the doing of any in Court; and if you know of an intention to commit any, you will give knowledge thereof to the Juſtices of the Court or ſome of them, that it may be prevented: you will not wittingly or willingly promote or ſue any falſe, groundleſs, or unlawful ſuit, nor give aid or conſent to the ſame; you will delay no man for lucre or malice; but you will conduct yourſelf in the office of an Attorney within the Courts, according to the beſt of your knowledge and diſcretion, and with all good fidelity, as well to the Courts as your clients. *So help you GOD.*

Parties may plead and manage their own cauſes perſonally.

SECT. 2. *And it is enacted*, That the parties may plead and manage their own cauſes perſonally, or by the aſſiſtance of ſuch counſel as they ſhall ſee fit to engage; but the plaintiff or plaintiffs in any ſuit, ſhall not be allowed to manage their cauſe by more than two Attornies, nor ſhall any defendant be allowed to employ a greater number.

[This Act paſſed *November* 4, 1785.]

An ACT for the Suppreſſion of Lotteries.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That if any perſon or perſons ſhall undertake, or ſet up any lottery for money, or expoſe to ſale, or diſpoſe of any eſtate, real or perſonal, by way of lottery, within this Government, whether the eſtate ſo propoſed to be diſpoſed of be in this Commonwealth, or any other place, every perſon ſo offending ſhall forfeit and pay the ſum of *Two Hundred Pounds*.

Penalty for ſetting up any lottery.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That if any perſon or perſons ſhall be aiding or aſſiſting in any ſuch lottery, by printing, writing, or in any other manner publiſhing an account thereof, or where the tickets may be had, every ſuch perſon ſhall forfeit and pay the ſum of *One Hundred Pounds*.

Penalty for aiding and aſſiſting in any lottery.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That every perſon who ſhall ſell, give, or otherwiſe diſpoſe of any ſuch lottery ticket, ſhall forfeit and pay the ſum of *Fifty Pounds* for each ticket ſo ſold, given or diſpoſed of; and every perſon who ſhall receive or purchaſe any ſuch lottery ticket, ſhall forfeit and pay the ſum of *Twenty Pounds*, for every ticket ſo received,

Penalty for diſpoſing of, receiving or purchaſing any ticket.

received, or purchaſed.—The ſaid ſeveral forfeitures to be and enure, one moiety to the uſe of this Government, and the other moiety to the uſe of him or them that will ſue for the ſame, by action of debt in any Court of Common Pleas within the Government.

Provided nevertheleſs, That nothing in this Act ſhall be conſtrued to extend to any lottery, or the tickets of any lottery, eſtabliſhed, permitted or allowed, or that hereafter may be eſtabliſhed or allowed by the Legiſlature of this State, or of any of the United States, or by the United States in Congreſs aſſembled. Proviſe.

[This Act paſſed *November* 8, 1785.]

An ACT for regulating the Exportation of Tobacco and Butter, and the Weight of Onions in Bunches, and the Size of Lime-Caſks.

Repealed as to time, Feb. 26, 1794. New Act as to Butter, Mar. 4, 1800.

WHEREAS conſiderable quantities of Tobacco are or may be raiſed in this Commonwealth, which if examined and ſubjected to proper regulations, might be made an article of export : Preamble.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That from and after the firſt day of *January* next, no tobacco ſhall be ſhipped or exported from this Commonwealth, but ſuch only as ſhall have been inſpected, and found to be well cured, and fit for foreign markets, and packed in ſtraight caſks :—ſaid caſks ſhall be four feet, four inches in length, and two feet ſeven inches diameter at the head, containing not leſs than nine hundred, and not more than fourteen hundred pounds weight each ; or if packed in half caſks, to contain not leſs than four hundred, nor more than ſix hundred pounds weight in each, unleſs ſuch caſks of tobacco ſhall appear to have been inſpected and marked agreeably to the laws of ſome other State. No tobacco to be exported, but ſuch as ſhall be inſpected.

SECT. 2. *And be it further enacted*, That the Governor, by and with the advice of Council, be, and is hereby empowered to appoint in ſuch ſeaport, and other exporting towns within this Commonwealth, as there ſhall be occaſion, one or more ſkilful and diſintereſted perſon or perſons, to be Inſpectors of Tobacco that ſhall be exported from this Commonwealth, who ſhall be ſworn to the due and impartial execution of their truſt ; and their duty ſhall be to inſpect all tobacco that ſhall be intended to be laden on board of any veſſel for foreign exportation, or that ſhall be intended to be tranſported by land or water, to either of the United States ; and every ſuch Inſpector is hereby required and authorized, to open the caſks containing the ſaid Governor and Council to appoint inſpectors. Inſpectors' duty.

ſaid commodity, intended to be exported as aforeſaid, and inſpect it, in four equal diviſions; *that is to ſay*, they ſhall take the caſk from the tobacco, and with an iron bar, or other inſtrument, lift one quarter, and then go through the whole, until it ſhall be examined in four different parts, and ſee that it be properly dry, well cured, not rotten, or damaged, and of the weight, and packed in ſuch caſks, as are before mentioned; and ſuch part as appears to be damaged or rotten, or unfit for exportation, ſhall be burned; and on every caſk containing the ſaid quantity, which by ſuch inſpection ſhall, according to the Inſpector's beſt judgment, appear to be well cured and not rotten or damaged as aforeſaid, he ſhall mark or impreſs with a burning iron the letters A. P. with the name of the town where it ſhall be thus approved, the name of ſaid Inſpector at large, and the letter I. at the end thereof, denoting that the ſame has been inſpected and approved.

And whereas large quantities of butter are made in and exported from this Commonwealth, which for want of due examination, and proof of its fitneſs, is diminiſhed in its value at foreign markets:

No butter to be exported unleſs proved and found to be of a good quality.

SECT. 3. *Be it therefore enacted by the authority aforeſaid*, That from and after the firſt day of *January* next, no butter ſhall be ſhipped or exported out of this Commonwealth, but ſuch as ſhall have been proved, and found to be well wrought, of a good quality and fit for foreign exportation, and packed in well ſeaſoned caſks or firkins, containing fifty pounds each, or in half firkins, containing twenty-five pounds each.

Governor and Council to appoint provers of butter.

SECT. 4. *And be it further enacted*, That the Governor, by and with the advice and conſent of Council, be, and he is hereby empowered, to appoint in ſuch ſeaport towns, within this Commonwealth, as there ſhall be occaſion, one or more ſkilful and diſintereſted perſon or perſons, to be Provers of Butter in firkins, who ſhall be ſworn to the due and impartial execution of their truſt: and their duty ſhall be to inſpect and prove all butter in firkins, that ſhall be intended to be laden on board any veſſel for foreign exportation; and every ſuch Prover is hereby authorized to open the caſks or firkins, containing the ſaid commodity, intended to be exported as aforeſaid, and with an hollow iron-ſearcher, ſhall from one ſide of the head of ſaid caſks or firkins, perforate diagonally to the other head, and thereby draw out ſo much butter as ſhall determine the quality of the whole; and ſee that it be preſerved with a due proportion of good fine ſalt, ſweet and in all reſpects fit to be exported, without danger of ſpoiling, to any foreign market. And every firkin containing the ſaid quantity, which by ſuch proof and inſpection ſhall, according to the Prover's beſt judgment, appear to be good and merchantable as aforeſaid, ſhall by him be marked or impreſſed with a burning iron, with the letters

Their duty.

letters A. P. and with the name of the town where it ſhall be thus approved, and the name of the Prover at large.

Penalty for preſuming to lade or put on board any veſſel, tobacco or butter not approved.

SECT. 5. *And be it further enacted*, That if the owner of any tobacco or butter, or any other perſon employed by him, ſhall preſume to lade or put on board any veſſel bound to any port without the Commonwealth, any tobacco or firkin butter, other than ſuch as ſhall have been approved by an Inſpector or Prover, and contained in caſks or firkins not having the aforeſaid marks, ſtamps or brands; or if any maſter of a ſhip or other veſſel, or other officer or mariner, ſhall receive on board any ſuch, the offender or offenders ſhall incur the penalty of *Ten Pounds* for each caſk of tobacco, and *Two Pounds* for each firkin of butter ſo ſhipped, to be ſued for, and recovered in any court of record within this Commonwealth, proper to try the ſame; and all ſuch tobacco and butter, laden or received on board as aforeſaid, ſhall be forfeited. And it ſhall be lawful for any Juſtice of the Peace, upon information given of any tobacco or butter, put on board any ſuch ſhip or other veſſel as aforeſaid, not duly marked or branded, to iſſue his warrant, directed to the Sheriff, his Deputy, or a Conſtable, requiring them reſpectively to make ſeizure of any ſuch tobacco or butter, ſhipped and not marked as aforeſaid, and to ſecure the ſame in order for trial; and ſuch officers are hereby reſpectively directed and empowered to execute the ſame.

Juſtices of the Peace may iſſue warrants for the ſeizure of ſuch tobacco or butter, ſo ſhipped.

Penalty for ſhifting the contents of any caſk, after being inſpected.

SECT. 6. *And be it further enacted*, That if after any caſk or firkin containing tobacco or butter, ſhall have been approved and ſtamped with the Inſpector's or Prover's marks, ſtamps or brands as aforeſaid, any cooper or other perſon ſhall preſume to ſhift the contents of ſuch caſks or firkins, and put therein any tobacco or butter, that hath not been duly inſpected, proved and approved as aforeſaid, ſuch cooper, or other perſon ſo offending, ſhall forfeit and pay the ſum of *Five Pounds* for every caſk of tobacco, and *Twenty Shillings* for every firkin of butter, ſo ſhifted, to be recovered in manner as aforeſaid.

Inſpectors or provers, guilty of neglect of duty;

SECT. 7. *And be it further enacted*, That in caſe any Inſpector or Prover, appointed and ſworn as aforeſaid, ſhall be guilty of any neglect or fraud, in inſpecting or proving any tobacco or butter, contrary to the true intent and meaning of this Act, or ſhall mark, with their reſpective brands or ſtamps, any caſk containing tobacco or butter, which they have not actually and thoroughly inſpected or proved, and which may be intended for exportation out of this State, he or they ſhall forfeit and pay the ſum of *Five Pounds* for every ſuch neglect, or for every caſk ſo falſely marked, to be recovered as aforeſaid.

Penalty.

Perſons not appointed, preſuming to mark caſks; Penalty.

SECT. 8. *And be it further enacted*, That if any perſon or perſons, not appointed and ſworn as aforeſaid, ſhall preſume to mark or brand any caſks of tobacco or butter as above deſcribed, he ſhall incur the aboveſaid penalty of *Five Pounds*, for every caſk ſo marked or branded, to be recovered as aforeſaid.

SECT.

Casks or firkins, before any tobacco or butter be put therein, to be weighed.

SECT. 9. *Be it further enacted*, That each cask or firkin, before any tobacco or butter be packed therein, shall be weighed by the owner of such tobacco or butter, who shall, with a marking iron, mark on one of the heads thereof the full weight of the cask and the initial letters of his name: and in case he shall falsely mark the same, such owner, upon conviction thereof, shall forfeit and pay the sum of *Three Pounds*, for each cask so falsely marked.

Inspectors' and Provers' fees.

SECT. 10. *And be it further enacted*, That the respective Inspectors shall be paid for every cask of tobacco they shall inspect and prove as before directed *One Shilling and Six Pence*, provided the number doth not exceed four, and *One Shilling* for each cask exceeding that number. And the respective Provers shall, for every firkin by them examined and proved as before directed, be paid *Four Pence*, provided the number doth not exceed six; and *Two Pence* for each exceeding that number; both Inspectors' and Provers' fees to be exclusive of cooperage, and to be paid by the shippers.

No vessel with tobacco or butter on board, shall be cleared out, until a certificate is produced from an Inspector or Prover.

SECT. 11. *And be it fiuuther enacted*, That no vessel on board which any tobacco in casks, or butter in firkins, shall be shipped for exportation, shall be cleared out by the Naval-Officer, until the master or owner shall have produced a certificate or certificates, from an Inspector or Prover appointed and sworn as aforesaid, that said articles have been by him inspected and proved as this Act directs; which certificates shall be granted free from any expense; and the said master shall swear that the manifest by him presented, to the best of his knowledge, contains the whole of the cargo on board of his vessel, and that he will not take any more on board without clearing the same.

Forfeitures, how applied.

SECT. 12. *And be it further enacted*, That all penalties and forfeitures, arising by force and virtue of this Act, shall be one moiety thereof to the use of this Commonwealth, and the other moiety to him or them who shall inform and sue for the same.

And whereas great quantities of onions are raised in and exported from this Commonwealth, in bunches; to prevent frauds by diminishing the usual weight of said bunches of onions,

No onions in bunches to be exported, unless they weigh as this act specifies.

SECT. 13. *Be it therefore enacted by the authority aforesaid*, That from and after the first day of *August* next, no onions, in bunches, shall be shipped or exported out of this Commonwealth, unless they weigh as follows, viz. rare-ripes (so called) two and half pounds, and onions from the seed, three and half pounds per bunch.

Selectmen directed to appoint persons to weigh onions. Such persons to be sworn.

SECT. 14. *And be it further enacted*, That the Selectmen of each town where such onions shall be shipped, are hereby authorized and directed to appoint some suitable person or persons to weigh the same, and give certificates of the weight; which person or persons so appointed, shall be sworn to the faithful performance of his or their duty, and shall receive, as fees,

Eight

Eight Pence for every hundred bunches ſo weighed and certified, for any quantity not exceeding five hundred bunches, and *Four Pence* for a greater quantity; ſaid fees to be paid by the purchaſer. Their fees.

SECT. 15. *And be it further enacted*, That if any perſon or perſons ſhall, after the paſſing of this Act, preſume to expoſe for ſale within this Commonwealth any onions in bunches, without firſt having them weighed as aforeſaid, and having obtained a certificate of the ſame, according to the true intent and meaning of this Act, he ſhall forfeit the ſame; one moiety thereof to and for the uſe of the poor of the town where they may be expoſed to ſale, the other moiety to him or them who ſhall inform of the ſame; and the Selectmen of ſuch town, or the major part of them, are hereby authorized and empowered to ſeize the ſame, and ſell them at public auction, and to account with the Overſeers of the Poor of ſuch towns for the net proceeds of one moiety thereof, and the other to ſaid informant. Perſons preſuming to expoſe for ſale onions not weighed; Forfeiture.

And to prevent frauds by reducing the ſize of lime-caſks,

SECT. 16. *Be it therefore enacted by the authority aforeſaid*, That from and after the firſt day of *March* next, no caſks of lime offered for ſale within this Commonwealth, ſhall contain leſs than one hundred gallons of merchantable lime; and whoſoever ſhall ſell, or offer for ſale, any caſks of lime, containing leſs than one hundred gallons of merchantable lime as aforeſaid, ſhall, upon information, be convicted before any court of record proper to try the ſame, and thereupon forfeit the whole of ſaid property, one moiety thereof to and for the uſe of the poor of the town where ſuch property was expoſed for ſale, the other moiety to and for the uſe of him or them who ſhall inform of the ſame. Size of lime-caſks regulated.

[This Act paſſed *November* 8, 1785.]

An ACT to prevent the Deſtruction of the Fiſh called Alewives, in their Paſſage up the Rivers and Streams in the Town of *Kingſton*, in the County of *Plymouth*.

[This Act paſſed *November* 8, 1785.]

An ACT for naturalizing *Paul Beltremieux*.

[This Act paſſed *November* 22, 1785.]

An ACT for the more effectually preventing of Treſpaſſes in divers Caſes.

WHEREAS evil minded perſons, in various inſtances, have committed treſpaſſes upon the property and poſſeſſions of others: And whereas the remedy provided, and Preamble.

penalties annexed by the common law, to the commiſſion of ſuch offences, have been found inſufficient to prevent them:

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That if any perſon ſhall cut down, deſtroy or carry away any tree or trees whatever, placed or growing for uſe, ſhade or ornament; or any timber, wood or underwood, ſtanding, lying or growing on land not his own, not having the conſent of the owner thereof; or ſhall throw down or open any bars or gates, fence or fences, and leave the ſame down or open; or ſhall injure, mar or deface any fence or fences, belonging to, or incloſing lands not his own; or ſhall dig up or carry away any ſtones, ore, gravel, clay, ſand, turf or mould, roots, fruit, or plants; or cut down or carry away any ſedge, graſs, hay or corn, wherein he hath no intereſt, ſtanding, lying, or being on any land not his own; or ſhall take or carry away from any wharf or landing place, whereof he is not a proprietor or owner, any goods whatever, wherein he hath no intereſt, without the leave of ſome perſon who has intereſt therein; or ſhall break the glaſs, or any part of it, in any building not his own; the perſon ſo offending, ſhall forfeit and pay for each tree or ſtick of timber ſo cut down, deſtroyed or carried away, and for each and every other offence, a fine not leſs than *Five*, nor more than *Forty Shillings*, to the uſe of the Commonwealth, to be recovered on complaint before any Juſtice of the Peace in the county where the offence ſhall be committed, and ſhall be liable to anſwer in damages to the party injured.

Penalty for committing any treſpaſs.

SECT. 2. *And be it enacted by the authority aforeſaid,* That if any perſon ſhall wilfully break, deface or deſtroy any mile-ſtone or public monument, unleſs properly authorized ſo to do, the perſon ſo offending ſhall forfeit and pay for each offence, a fine not leſs than *Forty Shillings*, nor more than *Fifteen Pounds*, to the uſe aforeſaid, to be recovered on indictment before the Court of General Seſſions of the Peace in the county where the offence ſhall be committed, and be further liable to anſwer in damages as aforeſaid.

Penalty for wilfully deſtroying any mile-ſtone or public monument.

SECT. 3. *And be it further enacted,* That any perſon who ſhall commit any of the offences above mentioned, ſecretly, in the night time, or in diſguiſe, ſhall forfeit and pay a fine to the uſe of the Commonwealth, not leſs than *Three Pounds*, nor more than *Twenty Pounds*, for each offence, to be recovered on indictment in manner above provided, and be liable to anſwer damages as aforeſaid; and if any perſon, on being indicted and ſentenced to pay any of the fines aforeſaid, ſhall be unable to pay the ſame, the Court paſſing ſentence, may order ſuch perſon to be publickly whipped, not exceeding twenty ſtripes, or be impriſoned not exceeding ninety days, and to find ſureties for his good behaviour for the term of one year.

Penalty for committing ſecretly, or in the night, any offences deſcribed in this Act.

SECT.

SECT. 4. *And be it enacted by the authority aforesaid*, That when any trespasses shall be committed on any buildings or inclosures belonging to any county, town or parish, the county, town and parish Treasurer, for the time being, shall be and hereby are severally authorized to sue for the damage done to the public buildings or inclosures of their county, town or parish, respectively; and where any public buildings are owned partly by the town and partly by the county, in that case, the county or town Treasurer, whoever may first institute an action, may prosecute for damages thus sustained. Trespasses committed on on any public buildings, damages how recovered.

Provided nevertheless, That nothing in this Act shall prohibit any Surveyor of highways moving any incumbrances in any public way, nor be construed to prevent any prosecution for theft, where a theft is committed. Proviso.

[This Act passed *November* 23, 1785.]

An ACT for repealing certain Parts of an Act, entitled, "An Act for regulating Pilotage in several Ports in this Commonwealth," and for otherwise regulating the Pilotage of the Port of *Newbury-Port*.

WHEREAS the provisions made for regulating the pilotage for the port of *Newbury-Port*, have been found insufficient to answer the purposes intended: Preamble.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That so much of an Act passed the eleventh day of *July*, one thousand seven hundred and eighty-three, entitled, "An Act for regulating Pilotage in several ports in this Commonwealth," as relates to the appointing and regulating of pilots and pilot-boats for the port of *Newbury-Port*, be and it is hereby repealed. Part of a former Act repealed.

SECT. 2. *Be it further enacted by the authority aforesaid*, That from and after the first day of *January*, one thousand seven hundred and eighty-six, no person shall undertake to pilot any vessel into or out of the river *Merrimack*, drawing nine feet of water, or more (coasters and fishing vessels excepted) without having first obtained a commission or branch, as is herein after provided. No person shall pilot any vessel, without having a commission or branch.

SECT. 3. *Be it further enacted*, That whenever any person shall obtain from the Marine Society of *Newbury-Port*, a certificate signed by their Clerk, that in their opinion, or in the opinion of the major part of the members of said Marine Society, he is capable and suitable to undertake the business of pilotage into and out of the river *Merrimack*, the Governor, with advice of Council, be and he is hereby empowered to grant to such person a commission or branch for him to exercise said business as aforesaid, and the same to demand and recall whenever Governor and Council to commission a suitable person.

ever ſaid Marine Society, or the major part of them, ſhall certify by their Clerk that the ſaid perſon is rendered incapable or improper to be continued in ſaid buſineſs.

Perſon commiſſioned, to give bond.

SECT. 4. *Be it further enacted by the authority aforeſaid*, That before any perſon ſhall receive ſuch commiſſion or branch, he ſhall give bond, with ſufficient ſurety, to the Treaſurer of this Commonwealth, in the ſum of *One Hundred Pounds*, conditioned that he will give up ſaid commiſſion or branch whenever it ſhall be demanded as aforeſaid.

Perſons piloting without being commiſſioned, not entitled to any fee.

SECT. 5. *Be it further enacted*, That if any perſon other than one having obtained a commiſſion or branch, as is herein before provided, ſhall preſume to pilot a veſſel contrary to the meaning of this Act, he ſhall not be entitled to any fee for the ſame, and ſhall further be liable to pay any damages that may accrue in conſequence of his undertaking ſo to pilot ſuch veſſel, to be recovered by the owner, aſſignee or maſter of ſaid veſſel in an action on the caſe, to be brought before any court proper to try the ſame.

[This Act paſſed *November* 23, 1785.]

An ACT for naturalizing *William Bond*.

[This Act paſſed *November* 23, 1785.]

An ACT repealing in Part an Act, entitled, "An Act for the Regulation of Navigation and Commerce."

[This Act paſſed *November* 29, 1785.]

An ACT declaring void certain pretended Judgments given in the Town of *Boſton*, between the nineteenth Day of *April*, in the Year of our LORD One thouſand ſeven hundred and ſeventy-five, and the ſeventeenth Day of *March* next following.

Preamble.

WHEREAS between the nineteenth day of *April*, in the year of our Lord one thouſand ſeven hundred and ſeventy-five, and the ſeventeenth day of *March* next following, and whilſt the town of *Boſton* was in the poſſeſſion of the *Britiſh* troops, and the impartial adminiſtration of juſtice was obſtructed, certain pretended judgments were rendered againſt divers perſons who had left the ſaid town, and ſought the protection of their country; and ſuch proceedings have been had thereon as may greatly vex and injure many good citizens of this Commonwealth, unleſs the ſame be declared null and void:

Be

Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That all such pretended judgments rendered in the town of *Boston* between the nineteenth day of *April*, in the year of our Lord one thousand seven hundred and seventy-five, and the seventeenth day of *March* next following, by any persons pretending to constitute any Superior Court of Judicature, Court of Assize, or Court of General Gaol Delivery, or Inferior Court of Common Pleas for the county of *Suffolk*, and which have not been heretofore provided against by law, and all proceedings had thereon, or by the authority of the same, be and hereby are declared to be null and void, and shall be so deemed, taken and known. Pretended judgments rendered null and void.

[This Act passed *November* 29, 1785.]

An ACT in Addition to an Act made in the Year One thousand seven hundred and seventy-two, entitled, "An Act to prevent the Destruction of Oysters in *Charles* and *Mistick* Rivers."

[This Act passed *November* 29, 1785.]

An ACT to set off Part of the Town of *Ipswich*, and to annex it to the Town of *Rowley*.

[This Act passed *November* 29, 1785.]

An ACT for establishing a Toll for the Purposes of repairing and maintaining the Great Bridge over the River *Parker*, in the Town of *Newbury*, and County of *Essex*.

[This Act passed *November* 29, 1785.]

An ACT in Addition to, and for repealing certain Clauses of an Act, passed the present Year, entitled, "An Act for regulating and governing the Militia of the Commonwealth of *Massachusetts*, and for repealing all Laws heretofore made for that Purpose."

[This Act passed *November* 29, 1785.]

An ACT for incorporating certain Lands in *West-Springfield*, in the County of *Hampshire*, into a common Field.

[This Act passed *November* 30, 1785.]

An

An ACT for incorporating into a diſtinct and ſeparate Field a Tract of Land called *Ball's Swamp*, lying in the Great Field, on the Weſt Side of *Connecticut-River*, in the ancient Town of *Springfield*, and bounding ſoutherly and eaſterly on *Agawam River*, northerly on the Brow of a Hill, and weſterly on *Ferre's Land*, ſo called.

[This Act paſſed *November* 30, 1785.]

An ACT for incorporating a common and general Field, in the Town of *Deerfield*, in the County of *Hampſhire*.

[This Act paſſed *November* 30, 1785.]

An ACT for incorporating the Plantation called *Pearſontown*, in the County of *Cumberland*, into a Town by the Name of *Standiſh*.

[This Act paſſed *November* 30, 1785.]

An ACT for encouraging the Manufacture of Loaf-Sugar within this Commonwealth.

[This Act paſſed *November* 30, 1785.]

An ACT empowering the Selectmen of ſuch Towns where there may be Fire-Engines, to appoint Engine-Men; and repealing the Laws heretofore made for that Purpoſe.

Addit. Act, Feb. 25, 1795.

Preamble.

WHEREAS it is of importance that proviſion ſhould be made to render the uſe of engines for extinguiſhing fires as beneficial as poſſible:

Selectmen of towns that are provided with engines, empowered to appoint engine-men.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the Selectmen of ſuch towns in this Commonwealth as are or may be provided with a fire-engine, or engines, be and they are hereby empowered, if they judge it expedient, as ſoon as may be after the paſſing of this Act, to nominate and appoint a number of ſuitable perſons (not exceeding fifteen to one engine) for Engine-Men; who ſhall continue in ſaid office, during the pleaſure of ſuch Selectmen; which Engine-Men

Engine-Men shall be, and they are hereby authorized and empowered, to meet together some time in the month of *May* annually; at which meeting, they shall have authority to choose a Master, or Director and Clerk of the said engine; and establish such rules and regulations, respecting their duty as Engine-Men, as shall be approved of by the Selectmen, and to annex penalties to the same, which may be recovered by the Clerk of said Engine-Men, before any Justice of the Peace in the same county: *Provided*, No penalty shall exceed *Forty Shillings*, and that such rules and regulations shall not be repugnant to the laws of this Commonwealth. Proviso.

Engine-men to meet together once a month.

SECT. 2. *And be it enacted by the authority aforesaid*, That the respective companies of Engine-Men, who may be nominated and appointed, in pursuance of this Act, shall be held and obliged to meet together once a month, and oftener if necessary, for the purpose of examining the state of the engine to which they belong, and the appendages belonging to the same, and seeing that the said engine is in good repair, and ready to proceed on any emergency to the relief of any part of the community that may be invaded by the calamity of fire; and the said Engine-Men appointed as aforesaid, shall be held and obliged to go forward, either by night or by day, under the direction of the Firewards in the same town, and to use their best endeavours to extinguish any fire that may happen in the same town, or the vicinity thereof, and shall come to their knowledge, without delay.

And whereas there may, in some towns, be an engine or engines the property of individuals, who would incline the same might be employed for the benefit of the said town, subject to the like regulations and privileges as though the said engine or engines appertained to the said town:

Engine-men may be appointed for engines belonging to individuals;

SECT. 3. *Be it enacted by the authority aforesaid*, That whenever the proprietor or proprietors of any engine or engines shall apply to the Selectmen of any town in which the said engine or engines may be, setting forth, that they have such engine or engines which they are desirous should be employed for the benefit of the said town, the Selectmen of such town, upon application as aforesaid, may appoint Engine-Men in the same manner, with the same privileges, and subject to the same regulations, as though the said engine or engines were the property of the said town.

Exempted from military duty, &c.

SECT. 4. *And be it further enacted*, That the persons who may be appointed Engine-Men in pursuance of this Act, shall be and they are hereby exempted from common and ordinary military duty, and from serving as Jurors, or in the office of a Constable, during the time they may be employed in the service aforesaid.

Persons negligent or remiss in duty, shall be discharged.

SECT. 5. *Be it enacted by the authority aforesaid*, That if any person, being appointed in manner herein before directed, shall, in the opinion of the said Selectmen, be negligent and remiss in

in the duties required of him, as an Engine-Man, by this Act, it shall be the duty of the Selectmen in the same town, upon sufficient evidence thereof, to discharge him from said company, and proceed to appoint another Engine-Man in his room, in the manner herein before directed.

Acts heretofore made, repealed.

SECT. 6. *And be it further enacted*, That all the Acts heretofore made, providing for the appointment of Engine-Men, be and they are hereby repealed.

[This Act passed *February* 7, 1786.]

An ACT for naturalizing *Michael Walsh*.

[This Act passed *February* 7, 1786.]

An ACT for naturalizing *William Erving*, Esq. and *John Duballet*.

[This Act passed *February* 8, 1786.]

Acts, Mar. 14, 1783.

An ACT for the holding a Supreme Judicial Court in the County of *Lincoln*.

WHEREAS it is found expedient and necessary, that there should be held a Supreme Judicial Court within and for the county of *Lincoln* :

Court to be annually held at *Pownalborough*.

SECT. 1. *Therefore, be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That there shall be annually held at *Pownalborough*, within and for the county of *Lincoln*, a Supreme Judicial Court, upon the second Tuesday next following the fourth Tuesday in *June*.

Appeals, processes, &c. now pending at *Falmouth*, shall be returned and proceeded upon by the court at *Pownalborough*.

SECT. 2. *Be it further enacted by the authority aforesaid*, That all appeals, recognizances and processes whatever, already granted, taken, pending or issued, or that may within the space of three months from the passing of this Act be granted, taken, pending or issued, before, or by the Court of Common Pleas, Court of General Sessions of the Peace, or any Justice or Justices of the Peace for the said county of *Lincoln*, which are to be returned, entered or proceeded upon at the Supreme Judicial Court, to be held at *Falmouth*, in the county of *Cumberland*, for the counties of *Cumberland* and *Lincoln*, shall be returned to, and entered, and proceeded upon by the said Supreme Judicial Court, to be held at *Pownalborough* aforesaid, according to law, and the rules of the same Court.

Writs, precepts, &c. shall be transferred to the court at *Pownalborough*.

SECT. 3. *Be it further enacted by the authority aforesaid*, That all writs, precepts and processes, which have been granted or issued and returned, or are returnable to the said Court holden at *Falmouth* ; and all indictments and presentments found, and recognizances

recognizances taken, at and by the ſame Court, and pending therein, which, if this Act had been paſſed and in full force, at the time of granting, iſſuing, finding or taking ſuch writs, precepts, proceſſes, indictments, preſentments and recognizances, ſhould have been returned or made returnable to the Supreme Judicial Court for the ſaid county of *Lincoln*; and all writs, precepts, and proceſſes that hereafter may be granted or iſſued within the term aforeſaid, and made returnable to the ſaid Court holden at *Falmouth*, which, by virtue of this Act, ought to be made returnable to the ſaid Court at *Pownalborough*, ſhall be transferred and returned to the ſaid Supreme Judicial Court at *Pownalborough*, and ſhall be proceeded on in manner as aforeſaid; and all perſons concerned are to conduct themſelves and appear accordingly.

Sect. 4. *And be it further enacted*, That the ſeveral Acts, and clauſes of Acts, for holding a Supreme Judicial Court at *Falmouth*, within the county of *Cumberland*, for the counties of *Cumberland* and *Lincoln*, ſhall be and hereby are repealed, ſo far as the ſame reſpect the county of *Lincoln*; and henceforth there ſhall be the ſame proceedings in and by the ſaid Supreme Judicial Court, within and for the county of *Cumberland*, as are by law had in the other counties of this Commonwealth.

[This Act paſſed *February* 13, 1786.]

An ACT for enforcing the ſpeedy Payment of Rates and Taxes, and directing the Proceſs againſt deficient Conſtables and Collectors.

Addit. Acts, Feb. 3, 1792, Feb. 26, 1794, and Feb. 25, 1800.

Sect. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the Treaſurer and Receiver-General ſhall ſend ſuch warrants as he ſhall, from time to time, be ordered to iſſue, for the aſſeſſing any rate or tax, incloſed to the Sheriff of each reſpective county, who is required immediately to diſpoſe of and tranſmit the ſame unto the Aſſeſſors of the ſeveral towns, diſtricts and plantations within ſuch county, according to the directions thereof; for diſpoſing of which he ſhall have a reaſonable allowance ordered him by the Court of Seſſions of the ſame county, to be paid out of the county treaſury, upon his laying the account thereof before the ſaid Court.

Treaſurer to ſend his warrants incloſed to Sheriffs, Sheriffs to tranſmit them to Aſſeſſors; and to have allowance therefor.

Sect. 2. *Provided always, and it hereby is enacted*, That no allowance ſhall be made to any Sheriff for tranſmitting any ſuch warrants, unleſs he ſhall produce a certificate from one of the Aſſeſſors, or the Clerk of each town, diſtrict or plantation, in the county to which ſuch Sheriff belongs, or other ſatisfactory evidence of their having reſpectively received ſuch warrant as aforeſaid.

Proviſo.

Sect.

Treasurer to send a certificate of any deficiency in towns, to the Clerk of the Court of Sessions.

SECT. 3. *And be it further enacted*, That if the Treasurer of this Commonwealth, for the time being, shall not receive a certificate of the assessment of any tax from the Assessors of any town, district or plantation, within sixty days from the time appointed in the warrant for certifying the same, the Treasurer of the Commonwealth, for the time being, shall send a certificate of such deficiency to the Clerk of the Court of General Sessions of the Peace, for the county whereto the deficient town or district belongs, who shall lay the same before the said Court of Sessions at their next sitting; whereupon the said Court shall forthwith proceed to appoint Assessors to assess and apportion the rates and assessments granted as aforesaid; and if any person appointed an Assessor as aforesaid by the Court of Sessions shall refuse to serve, he shall forfeit the sum of *Six Pounds* to the use of this Commonwealth, to be recovered by complaint in the same Court, by such person as the said Court may appoint to be agent or attorney in behalf of the Commonwealth for that purpose, who shall forthwith pay the same to the Treasurer of the Commonwealth; and after such refusal, the said Court of Sessions shall, as soon as may be, proceed to appoint other Assessors.

Court of Sessions to appoint Assessors.

Forfeiture for refusing to serve.

If Constables or Collectors are remiss in their duty, Treasurer to issue a warrant of distress.

SECT. 4. *And be it further enacted*, That if any Constable or Collector to whom any tax or assessment shall be committed to collect, shall be remiss and negligent of his duty in not levying and paying unto the Treasurer and Receiver-General such sum and sums of money as he shall from time to time have received, and as ought by him to have been paid within the respective times set and limited by the Assessor's warrant, pursuant to law, the Treasurer and Receiver-General is hereby empowered, after the expiration of the time so set, by warrant under his hand and seal, directed to the Sheriff or his deputy, to cause such sum and sums of money to be levied by distress and sale of such deficient Constable or Collector's estate, real and personal, returning the overplus, if any there be; and for want of such estate, to take the body of such Constable or Collector, and to imprison him until he shall pay the same; which warrant the Sheriff or his deputy is hereby empowered and required to execute accordingly.

If they have no estate to be found, towns are to make good the deficiency.

SECT. 5. *And be it further enacted*, That if any Constable or Collector, so failing as aforesaid, have no estate to be found whereon to make distress, and his person cannot be taken within the space of three months from the time a warrant of distress shall issue from the Treasurer and Receiver-General as aforesaid, or being taken and committed to gaol shall not within three months satisfy the same, in such case the town, district or plantation, whose Constable or Collector so fails of his duty, shall, within three months from the expiration of the said three months first mentioned, make good to the treasury the sum or sums due or owing to the same, from such deficient Constable

or

or Collector; and the Assessors of such town, district or plantation, having notice in writing from the Treasurer of the failure of any Constable or Collector as aforesaid, shall forthwith thereupon, without any other or further warrant, assess the sum the said deficient Constable or Collector is deficient, upon the inhabitants and estates of such town, district or plantation, in manner as the sum so committed to such deficient Constable or Collector was assessed, and commit the same to some other Constable or Collector, with warrant to collect; and in default thereof, the Treasurer of this Commonwealth is directed and empowered to issue a warrant of distress against such deficient Assessors for the whole sum which may remain due from such deficient Constable or Collector, which shall be executed in the same manner as is prescribed in this Act for serving other warrants of distress, which may be issued by such Treasurer. *Provided always*, That such Constable or Collector failing of his duty as aforesaid, for whose default the town, district or plantation is answerable, as before expressed, shall, at all times afterwards, be liable to the action or suit of the inhabitants, in their corporate capacity, for all such sum and sums as were assessed upon the same through his defect, and for other damages occurring to them thereby. And in case of the decease of any Constable or Collector in any town, district, plantation, precinct or parish, before his having adjusted the accounts of his assessment to him committed to collect, for such town, district, plantation, parish or precinct, the executors or administrators of such Constable or Collector, shall, within two months after his decease, settle and make up accounts with the Assessors of the said town, district or plantation, precinct or parish, of such part of the assessment as was received and collected by the deceased Constable or Collector, in his life time, with which such executors or administrators shall be chargeable, in like manner as the deceased Constable or Collector should be if living; and such Assessors shall thereupon procure and appoint, in writing, some suitable person, a Collector to perfect such collection; and the person so appointed is accordingly hereby empowered and required to execute all such powers as were granted to the deceased Constable or Collector: And if the executors or administrators of any Constable or Collector so deceased, not having fully collected the assessment committed, shall fail of making up and settling the account of what was received by the deceased as aforesaid, before the expiration of the time aforesaid, such executors or administrators shall be chargeable with the whole sum committed to their testator or intestate, in case there be sufficient assets, in the same manner the deceased Constable or Collector should be if living.

Assessors of such towns to assess the deficiency, and commit the same to some other Constable or Collector.

In case of default in Assessors, the Treasurer to issue a warrant of distress.

Proviso.

In case of the decease of any Constable or Collector before his accounts are adjusted, what proceedings shall be had.

Assessors to appoint a Collector to perfect the collection.

Sect. 6. *And be it further enacted*, That if the Constable or Collector of any town, district, plantation, precinct or parish, within

If Conſtables or Collectors of any town taxes, &c. are remiſs in their duty, the receiver of ſuch taxes empowered to iſſue his warrant of diſtreſs.

within this Commonwealth, to whom any county, town, diſtrict, plantation, precinct or pariſh rates or aſſeſſments ſhall have been committed to collect, ſhall be remiſs in his duty, by neglecting to collect and pay in the ſame to the Treaſurer or Receiver of ſuch county, town, diſtrict, plantation, precinct or pariſh, by the time fixed in the warrant to him directed, ſuch Treaſurer or Receiver is hereby empowered to iſſue his warrant, returnable in ninety days, under his hand and ſeal, directed to the Sheriff of the county, or his deputy (who are hereby reſpectively directed and empowered to execute the ſame) to cauſe ſuch ſum or ſums of money as ſuch Conſtable or Collector hath not paid in, to be levied by diſtreſs and ſale of his eſtate real or perſonal, returning the overplus, if any there be; and for want of ſuch eſtate, to take the body of ſuch Conſtable or Collector, and him impriſon until he pay the ſame; and the warrant ſhall be in ſubſtance as follows:

Form of the warrant.

(Seal.) ſſ. A. B. *Treaſurer of the of* B. *in the ſaid county: To the Sheriff of the county of or his Deputy,* GREETING.

WHEREAS *C. D.* of aforeſaid [*addition*] on the day of being a of rates and taxes granted and agreed on by the aforeſaid, had a liſt of aſſeſſments, duly made by the Aſſeſſors of the aforeſaid, amounting to the ſum of committed to him, with a warrant under their hands and ſeals, directing and empowering him to collect the ſeveral ſums in the ſaid aſſeſſment mentioned, and pay the ſame to the Treaſurer of aforeſaid, by the day of ; but the ſaid *C. D.* hath been remiſs in his duty, by law required, and hath neglected to collect the ſeveral ſums aforeſaid, and pay the ſame to the Treaſurer of the aforeſaid; and there ſtill remains due thereof the ſum of and the ſaid *C. D.* ſtill neglects to pay the ſame: You are hereby, in the name of the Commonwealth of *Maſſachuſetts*, required forthwith to levy the aforeſaid ſum of by diſtreſs and ſale of the eſtate, real or perſonal, of the ſaid *C. D.* and pay the ſame unto the Treaſurer of the ſaid returning the overplus, if any there be, to the ſaid *C. D.* and for want of ſuch eſtate to take the body of the ſaid *C. D.* and him commit to the gaol in the county aforeſaid, there to remain until he has paid the ſum of with *Two Shillings* for this warrant, together with your fees, or that he be otherwiſe therefrom diſcharged by order of law; and make return of this warrant to myſelf or my ſucceſſor, as Treaſurer of the ſaid within ninety days from this time, with your doings therein.

Given under my hand and ſeal, this day of in the year of our Lord one thouſand ſeven hundred and

SECT. 7. *And it is further enacted*, That all executions or warrants of diſtreſs, that have been, or may hereafter be iſſued by

by the Treaſurer and Receiver-General, or by the Treaſurer of any county, town, diſtrict, plantation, precinct or pariſh, againſt any Conſtable or Collector, which hath been or may be hereafter delivered to the Sheriff of any county within this Commonwealth, or his deputy, ſuch Sheriff or deputy ſhall make return of his doings thereon unto the Treaſurer who iſſued the ſame execution or warrant of diſtreſs, within a reaſonable time after the return day, in the ſame mentioned, with the money, if any, that he hath received and collected by virtue thereof; and where the ſame ſhall neceſſarily be returned unſatisfied, or ſatisfied in part only, ſuch Treaſurer may iſſue an *alias* for ſuch ſum as may remain due on the return of the firſt: and ſo *toties quoties*; which reaſonable time after the return day ſhall be computed at the rate of forty-eight hours for every ten miles' diſtance, from the dwelling-houſe of the Sheriff or his deputy, to the place where the warrant may be returnable; and any Sheriff or Deputy-Sheriff, that ſhall make default in accounting for, and paying in, the monies he may have collected and received of any deficient Conſtable or Collector, by execution or warrant of diſtreſs as aforeſaid, or in making return of his doings within reaſonable time as aforeſaid, ſhall be liable to pay the whole ſum in ſuch execution or warrant of diſtreſs mentioned; and the Treaſurer and Receiver-General of this Commonwealth, and the Treaſurers of the counties, towns, diſtricts, precincts and pariſhes reſpectively, are hereby authorized and empowered to make out their warrants reſpectively, directed to the Coroner of ſuch county, where any Sheriff or his deputy is deficient as aforeſaid, requiring them reſpectively as aforeſaid, to diſtrain for the ſame, upon the eſtate, real or perſonal, of ſuch deficient Sheriff or his deputy, as is before directed herein, with reſpect to the Sheriff or his deputy making diſtreſs upon the eſtate of deficient Conſtables or Collectors; which warrant, the Coroner of any county reſpectively is hereby empowered and required to execute.

Sheriffs to make return of their doings.

When warrants are returned unſatisfied, Treaſurer to iſſue an *alias*.

Sheriffs making default, ſhall be liable to pay the whole ſum.

Appendix, ch. 42, ſect. 1, 2, 3, Prov. law.

SECT. 8. *And be it further enacted*, That when any execution or warrant of diſtreſs iſſued by the Treaſurer of the ſtate, or Treaſurer of any county, town, diſtrict, plantation, precinct or pariſh, to the Sheriff or his deputy, or to the Coroner, ſhall be levied on the lands, tenements, or hereditaments of any deficient Conſtable, Sheriff or deputy, in every ſuch caſe, the officer executing ſuch warrant of diſtreſs, ſhall make ſale thereof at public vendue, to the higheſt bidder, and execute a good deed or deeds of bargain and ſale thereof, to the purchaſer, having firſt given notice of the time and place of ſale, by poſting up advertiſements, at leaſt fourteen days previous thereto, in two or more public places in the town or place where ſuch lands or tenements lie, as alſo in the two adjacent towns; and all deeds and conveyances of any ſuch lands or tenements duly executed as aforeſaid, ſhall be good and effectual in law unto the purchaſer,

When warrants of diſtreſs are levied on lands, &c. of deficient Conſtables, Sheriffs, or Deputies, ſale thereof to be at public vendue.

chaſer, his heirs and aſſigns forever, to all intents and purpoſes, as though executed by the deficient Conſtable, Sheriff or deputy; and in caſe the produce of ſuch lands and tenements ſhall not ſatisfy the ſum or ſums, mentioned in the ſaid warrant or warrants of diſtreſs, together with reaſonable charges ariſing thereon, then the Treaſurer iſſuing ſuch warrant, ſhall iſſue an *alias* execution or warrant of diſtreſs for ſuch remaining ſum or ſums, and the officer executing the ſame, for want of eſtate, ſhall take the body of ſuch deficient Conſtable, Collector or Deputy-Sheriff, and him commit unto the common gaol of the county whereto he belongs, until he ſhall pay the ſame.

In caſe the produce ſhall not ſatisfy the ſums, an *alias* execution ſhall be iſſued.

Proviſo. *Provided always*, That when any Conſtable, Collector, or Deputy-Sheriff, ſhall be committed to gaol for default in payment of any taxes committed to him to collect, ſuch Conſtable, Collector, or Deputy-Sheriff, ſhall be admitted to the liberty of the gaol-yard, they procuring ſufficient bonds in the ſame manner as by law is preſcribed for other debtors.

Further proviſo. SECT. 9. *Provided always, and be it further enacted*, That in no caſe whatever, any diſtreſs ſhall be made or taken from any perſon, of his arms or houſehold utenſils, neceſſary for upholding life; nor of tools or implements neceſſary for his trade or occupation, beaſts of the plough neceſſary for the cultivation of his improved land; nor of bedding or apparel neceſſary for him and his family; any law, uſage, or cuſtom to the contrary notwithſtanding.

When taxes are laid on plantations not incorporated, directions in this caſe. SECT. 10. *And be it further enacted*, That when any part or proportion of any ſtate or county tax, ſhall be laid on any plantation, not incorporated, the Treaſurer of the ſtate, or of ſuch county reſpectively, ſhall iſſue his precept to ſome Juſtice of the Peace, dwelling near to ſuch plantation, requiring him forthwith to grant his warrant, directed to ſome principal inhabitant of ſuch plantation, requiring him to notify and warn the inhabitants of ſuch plantation, being freeholders, to meet at ſuch time and place within the ſame, as in ſuch warrant ſhall be ſpecified, in order to chooſe needful officers for the purpoſes hereafter mentioned, and ſuch principal inhabitant is hereby obliged to obſerve and obey the warrant that he ſhall receive from ſuch Juſtice, on the penalty of forfeiting and paying the whole ſum that ſhall be ordered to be levied on ſuch plantation, to be recovered by action of debt by ſaid reſpective Treaſurers, in any court of record within this Commonwealth proper to try the ſame. And ſuch principal inhabitant ſhall make return of the Juſtice's warrant to the Juſtice who iſſued it, with his doings therein, and the doings of the plantation in conſequence of it, within the time limited in ſuch warrant; and the Juſtice ſhall thereupon certify ſuch doings to the ſtate or county Treaſurer reſpectively: And ſuch of ſaid inhabitants as ſhall then

then aſſemble, ſhall have power, and they are hereby required to chooſe a Moderator and Clerk, as alſo Aſſeſſors and Collectors, for aſſeſſing and collecting ſuch plantation's proportion of ſuch ſtate and county tax as ſhall be ordered to be aſſeſſed, to be duly paid when collected by ſuch Collectors, to the ſtate or county Treaſurers reſpectively; and ſuch Clerk, Aſſeſſors and Collectors ſhall be under oath, to be adminiſtered by the Moderator of ſuch meeting, for the faithful diſcharge of their reſpective truſts, and ſhall have the ſame allowance from ſuch plantations as ſuch officers are entitled unto by law in towns corporate.

Inhabitants empowered and required to chooſe Aſſeſſors and Collectors.

SECT. 11. *And be it further enacted*, That the Aſſeſſors ſo choſen and ſworn, ſhall thereupon take a liſt of the rateable polls, and a valuation of the eſtates and faculties of the inhabitants of ſuch plantation, for a rule by which to make ſuch aſſeſſment, and by which to judge of the qualification of voters in meetings of the ſaid inhabitants thereafter to be holden, until another valuation ſhall be made.

Such Aſſeſſors' duty.

SECT. 12. *And be it further enacted*, That the Aſſeſſors, who ſhall from time to time be choſen or appointed for ſuch plantation, ſhall have power, and they are required to iſſue their warrants for calling meetings of the inhabitants there, in the month of *March* annually, for chooſing ſuch officers as aforeſaid, who ſhall be ſworn by the Moderator or ſome Juſtice of the Peace as aforeſaid.

Aſſeſſors of ſuch plantations to call a meeting of the inhabitants, annually, in *March*.

SECT. 13. *And be it further enacted*, That every Moderator of a plantation meeting, ſhall be held and obliged to notify the plantation officers to appear either before himſelf or ſome Juſtice of the Peace, within ſeven days from the time of their being choſen, and take the neceſſary oaths; and in caſe of neglect, ſhall forfeit and pay the ſum of *Three Pounds* for the uſe of the plantation, to be recovered by any inhabitant thereof, before any Juſtice of the Peace within the ſame county.

In what manner officers of plantations ſhall be ſworn.

SECT. 14. *And be it further enacted*, That whenever a Conſtable or Collector of any town, diſtrict, plantation, pariſh or precinct, ſhall be taken on execution by virtue of this Act, it ſhall be lawful for the Aſſeſſors of ſuch town, diſtrict, plantation, pariſh or precinct for the time being, if they ſee fit, to demand and receive of the Conſtable or Collector, taken as aforeſaid, a true copy of any or all the aſſeſſments which as Conſtable or Collector aforeſaid he had in his hands unſettled, at the time of being taken as aforeſaid, with the whole evidence of all payments on the aſſeſſments demanded as aforeſaid; and in caſe the ſaid Conſtable or Collector, taken as aforeſaid, ſhall upon being demanded thereto deliver up to the ſaid Aſſeſſors, all the aſſeſſments, which he as Conſtable or Collector as aforeſaid ſhall have in his hands unſettled, together with the whole evidence of all payments on the aſſeſſments demanded as aforeſaid, then

When Conſtables or Collectors are taken on execution, Aſſeſſors may demand a copy of the aſſeſſments unſettled.

Such Collectors or Constables to be accountable for the deficiency.

Towns, &c. may proceed to the choice of another Collector.

Penalty for refusing to accept.

then the said Constable or Collector shall receive such credit as the said Assessors, from an inspection of his assessments, shall adjudge him entitled to; and the said Collector or Constable taken as aforesaid, shall be holden for the payment for such sum or sums of money as he shall be found deficient, after being credited as aforesaid; and the same town, district, plantation, parish or precinct may proceed to the choice of another Collector at any other time besides the annual meeting in *March*, to finish the collections on the same assessments, who shall be sworn to the faithful discharge of his office; or if he shall refuse or neglect to accept the said office, or refuse to be sworn as aforesaid, he shall incur the penalty which Constables by law will incur for refusing or neglecting to be sworn or serve in the office of a Constable; and the Assessors, for the time being respectively, on receiving the assessment as aforesaid, shall make and deliver to the same Collector, chosen and sworn as aforesaid, a warrant or warrants for finishing the collections last aforesaid, in the form by law prescribed *(mutatis mutandis)* and the same Collector shall proceed to finish such collections in the same manner as Constables or other Collectors are to proceed in collecting like species of rates or taxes; and if any Constable or Collector taken as aforesaid, shall, on demand as aforesaid, refuse to exhibit and deliver up his assessments with the evidence as aforesaid, he shall be forthwith, either by the officer taking him as aforesaid, or by warrant from some Justice of the Peace, committed to the common gaol of the county, there to remain until he shall exhibit the same for the purpose aforesaid: And the Assessors of such town, district, plantation, parish or precinct, are hereby empowered to take the duplicate, or copies of the records of such assessments, if the same are recorded, and the same copies to deliver to the Collector, chosen as last aforesaid, who having received the same, and a warrant therefor, shall proceed to finish the collection of the rates and taxes in the same assessments mentioned, of the persons who did not pay the same to the Constable or Collector, taken as aforesaid.

If any Collector taken on execution refuse to deliver up his assessments, he shall be committed to gaol.

Proviso.

Provided always, That the Collectors chosen to finish the collections aforesaid, on averment of payment by the person or persons assessed, to the Constable or Collector taken as aforesaid, and denial of payment to the Collector for finishing the said collections, shall not proceed to distrain or imprison any person, unless a vote of such town, district, plantation, parish or precinct, is first had therefor, and certified to the same Collector by the Clerk of such town, district, plantation, parish or precinct.

If Constables or Collectors abscond, judgment of outlawry to proceed.

SECT. 15. *And be it further enacted*, That if any Constable or Collector of any town, district, plantation, parish or precinct, shall abscond or secrete himself for the space of one month, having assessments in his hands unsettled, the Selectmen or Assessors of such town, district, plantation, parish or precinct,

are

are hereby empowered to charge such Constable therewith, by declaration filed in the Supreme Judicial Court, and thereupon to proceed to judgment of outlawry against such Constable or Collector; and the same town, district, plantation, parish or precinct, are hereby empowered to choose a new Collector to finish the collections which such absconding Constable or Collector should have finished and completed; and the same collections may be finished in the same manner as is provided for finishing collections where the Constable or Collector is taken on execution, and refuses to exhibit or show his assessment as aforesaid; the said Selectmen, Assessors and Collector observing the rules and directions therein expressed.

Provided always, That if such Constable or Collector, during the aforesaid process of outlawry, shall surrender himself and confess the aforesaid charge, or settle the assessments, and pay the rates and taxes in his hands as aforesaid, no further process shall be had against him, except judgment for costs, which he shall be holden to pay. Proviso.

Provided also, That if, after judgment of outlawry rendered against him, such Constable or Collector shall surrender himself, and settle the same assessments, and pay the rates and taxes, and all costs of the process last aforesaid; and if the same settlement, payment and satisfaction, shall be recorded in the Supreme Judicial Court, such record shall be construed to operate and be a full and effectual reversal of the aforesaid judgment of outlawry; and such town, district, plantation, parish or precinct, shall have all other remedies against such Constable or Collector as they would have been entitled to, had no such process of outlawry ever been commenced. Proviso.

[This Act passed *February* 16, 1786.]

An ACT for raising and forming a Regiment of Cavalry in the County of *Worcester*.

[This Act passed *February* 17, 1786.]

An ACT for regulating the Proceedings in Actions of Account.

WHEREAS the proceedings on actions of account are prolix, and require amendment: Preamble.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That upon a judgment rendered in any Court of Common Pleas, that the defendant shall account, it shall be in the power of the party against whom such judgment shall hereafter be given, to appeal therefrom, if such party shall think

proper, before the ſame Court proceed to the appointing of auditors; and in caſe no appeal ſhall be made from the firſt judgment, that the defendant ſhall account an appeal from the final judgment, after the cauſe has been before auditors, ſhall not entitle the original defendant to try the iſſue of bailiff or not bailiff before the Supreme Judicial Court; but the firſt judgment that the defendant ſhall account ſhall remain in full force, and he ſhall account accordingly; and in caſe the defendant ſhall not enter and proſecute his appeal from the firſt judgment, the ſame upon complaint may be affirmed; and auditors may thereupon be appointed in the ſame manner they would have been in the Court of Common Pleas, had no appeal been made from the firſt judgment.

When perſons againſt whom judgment ſhall be given, refuſe to appear, damages to be aſſeſſed by a jury.

SECT. 2. *And be it further enacted*, That when any perſon againſt whom judgment ſhall be given, that he ſhall account, ſhall unreaſonably refuſe or neglect to appear at the time and place aſſigned by the auditors, or after appearing, ſhall refuſe or neglect to render an account, the auditors may certify ſuch refuſal or neglect to the Court from which their appointment iſſued; and the ſame Court may thereupon cauſe damages to be aſſeſſed by a jury, and enter up judgment for the damages ſo aſſeſſed, with reaſonable coſts, and award execution therefor; any law, uſage or cuſtom to the contrary notwithſtanding.

[This Act paſſed *February* 17, 1786.]

An ACT for naturalizing *James Wakefield*, *Ann Wakefield*, his Wife, and *Benjamin Wakefield*, *Ann Wakefield*, *Terence Wakefield*, and *Mary Wakefield*, his Children.

[This Act paſſed *February* 17, 1786.]

See Act, Mar. 4, 1800.

An ACT for the Choice and Appointment of Aſſeſſors, and for aſſigning their Powers and Authority.

Aſſeſſors to be choſen annually in the month of *March*.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That in the month of *March*, annually, at the ſame meeting when other town and diſtrict officers are choſen by the reſpective towns and diſtricts in this Commonwealth, there ſhall be choſen, by the qualified voters then preſent and voting, or the major part of them, three, five, ſeven or nine meet perſons, to be Aſſeſſors of all ſuch rates and taxes as the General Court ſhall order and appoint ſuch town or diſtrict to pay, towards the charges of the Government, within the ſpace of one year from the choice of ſuch Aſſeſſors, unleſs the warrant for the

the aſſeſſment ſhall not be by them received before the firſt day of *March* ſucceeding; and in caſe of its being received afterwards, it ſhall be delivered to their ſucceſſors in office, who ſhall be under the ſame obligations to make the aſſeſſment as their predeceſſors would have been under if they had ſeaſonably received the ſame, who ſhall alſo be the Aſſeſſors of county, town and diſtrict taxes; and each Aſſeſſor ſo choſen ſhall, within the ſpace of ſeven days next after being notified thereof, be ſworn before a Juſtice of the Peace or before the town or diſtrict Clerk, to the faithful diſcharge of his duty, in the form hereafter preſcribed; and the Aſſeſſors ſo choſen and ſworn, ſhall aſſeſs the polls of, and eſtates within ſuch town or diſtrict, their due proportion of any tax, according to the rules ſet down in the Act for raiſing the ſame, and make perfect liſts thereof under their hands or the hands of the major part of them, and commit the ſame to the Conſtable or Conſtables, Collector or Collectors of their town or diſtrict, if any there be, otherwiſe to the Sheriff, or his deputy, with a warrant under their hands and ſeals, in the form herein after directed, and return a certificate thereof to the Treaſurer or Receiver-General of this Commonwealth, for the time being, with the name of the Conſtable or Conſtables, Collector or Collectors, Sheriff or his deputy, to whom they ſhall have committed the ſame aſſeſſment, with a warrant as aforeſaid to collect; and the ſaid Aſſeſſors ſhall alſo have their aſſeſſment recorded in the town or diſtrict book, or leave an exact copy thereof, by them ſigned, with the town or diſtrict Clerk, or file ſuch copy in the Aſſeſſor's office, where any ſuch is kept, before the ſame ſhall be committed to a Conſtable or Collector, the Sheriff or his deputy, to collect, and at the ſame time ſhall lodge in the ſaid Clerk's office the invoice or valuation, or a copy thereof, from whence the rates or aſſeſſments are made, that the inhabitants, or others rated, may inſpect the ſame; and if any Aſſeſſor, after being choſen and notified to take the oath of an Aſſeſſor in the way and manner other town officers are notified and ſummoned, ſhall neglect to appear, or appearing ſhall refuſe to be ſworn, he ſhall forfeit and pay the ſum of *Five Pounds* for the uſe of the poor of the town or diſtrict reſpectively, to be recovered by their reſpective Treaſurers before the Court of General Seſſions of the Peace for the county in which ſuch town or diſtrict lies, by complaint, which for ſubſtance ſhall be as follows:

Aſſeſſors to be ſworn.

Their duty.

Aſſeſſors, after being choſen and notified, neglecting to appear, or refuſing to be ſworn, Penalty.

To be recovered by complaint, before the Court of Seſſions.

Form of the complaint.

TO the Juſtices of the Court of General Seſſions of the Peace for the county of to be held at within and for the county aforeſaid, on the Tueſday of next. Complains *A. B.* Treaſurer of the of that *C. D.* of [addition] on the day of laſt, was duly and legally choſen by the qualified voters of the

said to serve as an Assessor thereof, and that the said *C. D.* was notified to take the oath of that office as the law directs; yet the said *C. D.* has, for the space of seven days after being notified as aforesaid, neglected and still neglects to take the said oath, whereby he hath forfeited the sum of *Five Pounds* for the use of the poor of the said wherefore your complainant prays that a warrant of distress may be issued against the said *C. D.* for the forfeiture aforesaid, in form and manner as the law directs. Dated at the day of Anno Domini, 178

A. B. Treasurer.

Same form may be used to recover penalties of other town officers.

And the same form, *mutatis mutandis*, may be used in the recovery of any penalty which may be incurred by any person chosen as a town, district, plantation, parish or precinct officer, who shall neglect to take the oath of office as required by law; and the Selectmen of every such town or district, when any one or more of the Assessors so chosen shall refuse as aforesaid,

When Assessors shall so refuse, Selectmen shall summon a meeting for a new choice.

shall forthwith, after notice thereof, summon a meeting of the qualified voters of such town or district, to choose an Assessor or Assessors in the room of such Assessor or Assessors so refusing; which voters, so assembled, shall accordingly choose so many Assessors as shall be wanting to complete the number which the town or district, at the time of the first choice, voted should be elected.

Court of Sessions may remit the penalty, if they see cause.

Provided always, That it shall be in the power of the Court of General Sessions of the Peace, for the same county, upon reasonable excuse made to them by any Assessor that shall refuse to accept as aforesaid, to remit, if they see cause, the penalty aforesaid.

If towns shall not choose, or Assessors refuse to accept, Selectmen to be declared Assessors and sworn.

Assessors' pay.

Sect. 2. *And be it further enacted*, That if any town or district shall not choose Assessors as aforesaid, or if so many of them so chosen shall refuse to accept, as that there shall not be such a number of them as any town or district shall vote to be the Assessors thereof, then the Selectmen of such town or district shall be and hereby are declared and appointed the Assessors thereof; and every one of them shall be duly sworn to the discharge of the trust; and each Assessor shall be paid out of the town or district treasury *Four Shillings* for each whole day he shall be necessarily employed in that service.

Penalty for neglecting to choose Selectmen or Assessors.

Sect. 3. *And be it further enacted*, That if any town or district shall neglect to make choice of Selectmen or Assessors, the said default being made known unto the Court of General Sessions of the Peace within the same county, such town or district shall forfeit and pay a sum not exceeding *One Hundred Pounds* nor less than *Thirty Pounds*, as the Court of Sessions shall order, for the use of this Commonwealth; and in such case, as also where neither the Selectmen nor Assessors chosen

by

by any town or diſtrict ſhall accept the truſt, or having accepted the truſt ſhall not perform their duty, the Court of General Seſſions of the Peace in the ſame county, ſhall be and hereby are empowered to nominate and appoint three or more ſufficient freeholders within ſuch county, to be Aſſeſſors of the rates or taxes in ſuch town or diſtrict as aforeſaid, which Aſſeſſors, ſo appointed, after being duly ſworn, ſhall aſſeſs the polls and eſtates within ſuch town or diſtrict their due proportion to any tax, according to the rules ſet down in the Act for raiſing the ſame, together with the aforeſaid penalty, where the town or diſtrict makes default as aforeſaid, and ſuch additional ſum as ſhall anſwer their own reaſonable charges for time and expenſe in the ſaid ſervice, not exceeding *Ten Shillings* per day for each man ſo employed; and having made ſuch aſſeſſment, ſhall iſſue a warrant under their hands and ſeals for collecting the ſame, and tranſmit a certificate thereof to the Treaſurer, with the name of the Conſtable, Collector, Sheriff, or his deputy, to whom they ſhall commit the ſame to be collected; and ſuch Aſſeſſors ſhall be paid their charges as aboveſaid, the ſame being adjuſted and certified by two or more Juſtices of the Court by whom they were appointed Aſſeſſors, under their hands, out of the public treaſury, by warrant from the Governor, with the advice and conſent of Council.

In ſuch caſe, as alſo where Selectmen nor Aſſeſſors accept, or neglect to perform their duty, the Court of Seſſions to appoint Aſſeſſors. Their duty.

Such Aſſeſſors to be paid out of the public treaſury.

Sect. 4. *And be it further enacted,* That all Aſſeſſors choſen or appointed as aforeſaid ſhall duly obſerve all ſuch warrants as during the time of their office they ſhall receive from the Treaſurer or Receiver-General, purſuant to an Act or Acts made and paſſed by the General Court of this Commonwealth, for the aſſeſſing and apportioning any rate or tax upon the inhabitants or eſtates within the town or diſtrict whereof they are Aſſeſſors, on pain that the Aſſeſſors of any town or diſtrict, failing of their duty required by ſuch warrant of the Treaſurer, ſhall forfeit and pay the full ſum in ſuch warrant mentioned, to be by them aſſeſſed, to the uſe of the Commonwealth, which ſhall be levied by diſtreſs and ſale of the eſtates, real and perſonal, of ſuch deficient Aſſeſſors, by warrant from the Treaſurer, directed to the Sheriff of the county, or his deputy, in which ſuch town or diſtrict lies; and the Treaſurer is hereby authorized and required in ſuch caſe *ex officio*, to iſſue his warrant requiring the Sheriff, or his deputy, to levy the ſaid ſums accordingly, and for want of eſtate to take the bodies of ſuch deficient Aſſeſſors, and impriſon them until they pay the ſame; which warrant the Sheriff, or his deputy, is hereby empowered and required to execute accordingly; and the Court of General Seſſions of the Peace in the county where ſuch deficient Aſſeſſors dwell, ſhall be and hereby are directed and empowered forthwith to appoint other meet perſons to be Aſſeſſors of ſuch rates or taxes, according to the directions contained in the Treaſurer's

Aſſeſſors ſhall duly obſerve all ſuch warrants as they ſhall receive from the Treaſurer.

Forfeiture in caſe of neglect.

To be levied by diſtreſs.

Court of Seſſions to appoint other meet perſons to be Aſſeſſors.

Treasurer's warrant issued unto the former Assessors; and the Assessors who shall be so appointed, shall take the oath and perform the same duties, and be liable to the same penalties as the former Assessors.

SECT. 5. *And be it further enacted*, That the oath to be administered to the Assessors, chosen or appointed as this Act prescribes, shall be in the form following:

Form of the oath to be administered to Assessors.

YOU *A. B.* one of the Assessors for the of *C.* for the year ensuing, do swear, that you will proceed equally and impartially, according to your best skill and judgment, in assessing and apportioning all such rates and taxes as you may, according to law, be directed to assess and apportion during that time. *So help you GOD.*

SECT. 6. *And be it further enacted*, That the warrant to be issued by the Selectmen or Assessors, for the collecting and gathering in of the state rates or assessments, shall be in substance as follows:

Form of the warrant to be issued by Selectmen or Assessors, for the collection of state taxes.

(Seal.) ff. *To* A. B. *Constable or Collectors of the town of* A. *within the county of* S. GREETING.

IN the name of the Commonwealth of *Massachusetts*, you are required to levy and collect of the several persons named in the list herewith committed unto you, each one, his respective proportion, therein set down, of the sum total of such list, it being this town's proportion of a tax or assessment of *Pounds* *Shillings* and *Pence*, granted and agreed upon by the General Court of said Commonwealth, at their session, begun and held at *B.* on the day of for defraying the necessary charges of securing, protecting and defending the same; and you are to transmit and pay in the same unto *T. I.* Treasurer and Receiver-General of this Commonwealth, or to his successor in that office, and to complete and make up an account of your collections of the whole sum, on or before the day of ; and if any person shall refuse or neglect to pay the sum he is assessed in the said list, to distrain the goods or chattels of such person to the value thereof: and the distress so taken, to keep for the space of four days, at the cost and charge of the owner; and if he shall not pay the sum so assessed within the said four days, then you are to sell at public vendue the distress so taken, for the payment thereof, with charges; first giving forty-eight hours' notice of such sale, by posting up advertisements thereof in some public place in the town, district or plantation (as the case may be;) and the overplus arising by such sale, if any there be, besides the sum assessed, and the necessary charges of taking and keeping the distress, you are immediately to restore to the owner; and for want of goods or chattels, whereon to make distress (besides tools

tools or implements neceſſary for his trade or occupation, beaſts of the plough neceſſary for the cultivation of his improved lands, arms, utenſils for houſe-keeping neceſſary for upholding life, bedding and apparel neceſſary for himſelf and family) for the ſpace of twelve days, you are to take the body of ſuch perſon, ſo refuſing or neglecting, and him commit unto the common gaol of the county, there to remain until he pay the ſame, or ſuch part thereof as ſhall not be abated by the Aſſeſſors, for the time being, or the Court of General Seſſions of the Peace, for the ſaid county.

Given under our hands and ſeals, by virtue of a warrant from the Treaſurer aforeſaid, this day of 178 .

A. B.
C. D. } Aſſeſſors.

And the certificate of the aſſeſſment of any ſtate tax ſhall be in ſubſtance as follows:

Certificate of the aſſeſſment of any ſtate tax.

PURSUANT to a warrant from the Treaſurer of the Commonwealth of *Maſſachuſetts*, dated the day of *Anno Domini* . We have aſſeſſed the polls and eſtates of the of the ſum of and have committed liſts thereof to the of ſaid *viz.* to with warrants in due form of law, for collecting and paying in the ſame to Treaſurer of ſaid Commonwealth, or his ſucceſſor in office, on or before the day of next enſuing.

In witneſs whereof, we have hereunto ſet our hands at this day of *Anno Domini*

A. B.
C. D. } Aſſeſſors.

Warrants for town taxes, &c. to be in the ſame form.

SECT. 7. *And be it further enacted*, That the warrant to be iſſued for collecting county, town, diſtrict, plantation, precinct or pariſh rates or aſſeſſments, ſhall alſo be made out by the Aſſeſſors thereof in the ſame tenor, *mutatis mutandis*.

Manner of apportioning and aſſeſſing county and town taxes, &c.

SECT. 8. *And be it further enacted*, That all county, town, diſtrict, precinct, plantation and pariſh rates and taxes, ſhall be aſſeſſed and apportioned by the Aſſeſſors of the ſeveral towns, diſtricts, plantations, precincts and pariſhes within this Commonwealth, upon the polls of, and eſtates within the ſame, according to the rules that ſhall from time to time be preſcribed and ſet, in and by the then laſt tax-act of the General Court; and ſuch Aſſeſſors ſhall cauſe atteſted copies of ſuch aſſeſſments and valuations to be lodged in the Clerk's office of the place where the ſame are made, or file the ſame in their own office, if any ſuch they have.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That the Aſſeſſors of each town, diſtrict, plantation, precinct and

Assessors of each town to give seasonable warning to the inhabitants to bring in lists of their polls and estates.

and parish respectively, in convenient time, before they proceed to make any assessment, shall give seasonable warning to the inhabitants, at any of their respective meetings, or by posting up notifications in some public place in said town, district, plantation, precinct or parish, as the case may be, or notify the respective inhabitants in some other way, to make and bring in to them, the said Assessors, true and perfect lists of their polls, and of all their estates, both real and personal (saving such estate as is or may by law, from time to time, be exempted from taxation) which they were possessed of, at such periods as the General Court may from time to time order and direct; and if any person or persons shall not bring in a list of their estates, as aforesaid, to the Assessors, he, she, or they so neglecting or refusing, shall not be admitted to make application to the Court of General Sessions of the Peace, for any abatement of the assessment so laid on him, her or them; unless such person or persons shall make it to appear to the said Court, that it was not within the power of him, her, or them, to deliver to the Assessors, respectively, a list of his, her or their rateable estate, at the time appointed for that purpose. And if the Assessors suspect any falsehood in the list to them presented, of polls or estates, as aforesaid, then the said Assessors, or either of them, shall require the person presenting such list, to make solemn oath that the same is true, which oath the Assessors, or either of them, are hereby empowered to administer; and such list being exhibited on oath, shall be a rule for that person's proportion of the tax, who presented the same, which the Assessors may not exceed, unless they shall discover any error therein; in which case, the Assessors are hereby authorized and directed to assess such articles as appear to be kept back.

Persons refusing, shall not be admitted to make application for abatement.

If Assessors suspect falsehood in the list presented, they may require an oath.

Persons aggrieved at the sum set upon them, shall have a reasonable abatement by the Assessors.

When Assessors refuse, persons may complain to the Court of Sessions.

SECT. 10. *And be it further enacted,* That if any person or persons shall, at any time, be aggrieved at the sum or sums set and apportioned upon him or them, by the Assessors of any town, district, plantation or parish, and shall make it appear unto the Assessors, for the time being, of such town, district, plantation or parish, that he or they are rated more than his or their proportion, according to the rules given in the Act or Acts of the General Court, for making the said assessment, in such case the said Assessors, for the time being, shall make a reasonable abatement to the person or persons so aggrieved; and if they shall refuse so to do, such person or persons complaining, in writing, unto the next Court of General Sessions of the Peace, within that county, and making it appear that he or they are overrated as aforesaid, he or they shall be relieved by the said Court, and shall be reimbursed out of the treasury of the town, district, plantation or parish where such assessment was made, so much as the said Court or Assessors respectively shall see cause to abate him or them, with the charges;

es; and the said Court of General Sessions of the Peace are empowered, on such complaint being made, to require the Assessors or Clerk to produce the valuation by which the assessment is made, or a copy thereof.

Assessors may apportion such additional sum as any fractional division of the precise sum may render convenient.

SECT. 11. *Be it further enacted*, That the Assessors for any town, district, plantation, precinct or parish, from time to time may, and are hereby authorized and empowered to apportion on the polls and estates, according to law, such additional sum over and above the precise sum to them committed to assess, as any fractional divisions of such precise sum may render convenient in the apportionment thereof; not exceeding five per centum on the sum taxed: *Provided* the whole excess shall in no case amount to more than the sum of *Forty Pounds*, the surplus sum shall be paid into the treasury of such town, district, plantation, precinct or parish, and shall be subject to the order and disposal of such town, plantation, precinct, district or parish; and it shall be the duty of such Assessors, to certify such town, district, plantation, precinct or parish Treasurer thereof.

Proviso.

Plantations vested with the powers of towns in the choice of Assessors.

SECT. 12. *And be it further enacted*, That all plantations which shall, from time to time, be ordered by the General Court to pay any part or proportion of the public taxes, shall be and they hereby are fully vested with all the powers that towns in this Commonwealth by law are, so far as relates to the choice of Assessors of taxes; and any person who shall be chosen to the office of an Assessor of taxes, in any of the aforesaid plantations, and shall refuse to accept of the office to which he shall have been elected, or neglect to take the oath by law required to be taken by Assessors of taxes in towns, shall be liable to the same penalties, to be recovered in the same way and manner, as by this Act is provided in the case of Assessors refusing to accept such office, when chosen by towns.

Subject to the same penalties in case of neglect.

SECT. 13. *And be it further enacted*, That if any of the plantations aforesaid shall neglect to choose Assessors as aforesaid, or if the Assessors chosen by any such plantation, and accepting such trust, shall be remiss or neglect their duty; in every such case, such plantation shall be subject to the same penalties and be proceeded with in the same manner as by this Act is provided, in the case of deficient towns; and such deficient Assessors shall be and hereby are made liable to the same penalties, to be recovered by the same process as by this Act is provided, in the case of deficient Assessors chosen by towns.

And whereas, the county tax may often be so small as that it would be inconvenient to make a separate list of each person's proportion of it:

Assessors in certain cases may add the county to any of their other taxes.

SECT. 14. *Be it therefore enacted*, That in such case it shall and may be lawful for the Assessors of any town, district or plantation, to add their proportion of the county tax to any of their other taxes, and make out warrants and certificates accordingly.

SECT. 15.

Precincts and parishes shall choose Assessors in the month of *March* annually.

SECT. 15. *And be it further enacted*, That in the month of *March*, annually, at the time other precinct and parish officers are chosen by the respective precincts and parishes in this Commonwealth, there shall be chosen, by the qualified voters then present and voting, or the major part of them, three or five meet persons, to be Assessors of all such rates and taxes as shall be agreed upon and granted by their respective precincts and parishes at their meetings regularly warned for that purpose, who shall be sworn to the faithful discharge of their trust in the form before prescribed in this Act.

Warrants against Sheriffs to be served by a Coroner.

SECT. 16. *Be it further enacted*, That where any warrant by virtue of this Act is to be directed to the Sheriff of any county or his deputy, and the person, or any one of the persons against whom such warrant may be granted, shall be a Sheriff or Deputy-Sheriff for such county, in such case the warrant shall be directed to and served by a Coroner of the same county.

[This Act passed *February* 20, 1786.]

An ACT for the better securing, and rendering more effectual, Grants and Donations to pious and charitable Uses.

Preamble.

WHEREAS many grants and donations have heretofore been made by sundry well disposed persons, in and by such expressions and terms as plainly show it was the intent and expectation of such grantors and donors, that their several grants and donations should take effect, so as that the estates granted should go in succession; but doubts have arisen in what cases such donations and grants may operate so as to go in succession: for ascertaining whereof,

Appendix, ch. 63, sect. 1, 2.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That the deacons of all the several protestant churches, not being episcopal churches, and the church wardens of the several episcopal churches are, and shall be deemed so far bodies corporate, as to take in succession all grants and donations, whether real or personal, made either to their several churches, the poor of their churches, or to them and their successors, and to sue and defend in all actions touching the same; and wherever the ministers, elders or vestry, shall in such original grants or donations have been joined with such deacons or church-wardens as donees, or grantees in succession, in such cases, such officers and their successors, together with the deacons or church-wardens, shall be deemed the corporation for such purposes as aforesaid; and the minister or ministers of the several protestant churches, of whatever denomination, are and shall be deemed capable of taking in succession

Deacons and church-wardens deemed so far bodies corporate as to take in succession all grants and donations.

When ministers, elders and vestry are joined,

In such cases to be deemed the corporation for such purposes.

ceſſion any parſonage land or lands, granted to the miniſter and his ſucceſſors, or to the uſe of the miniſters, and of ſueing and defending all actions touching the ſame; ſaving that nothing in this Act ſhall be conſtrued to make void any final judgment of any Court of Common Law or Probate; ſaving alſo that no alienation of any lands belonging to churches hereafter made by the deacons, without the conſent of the church, or a committee of the church for that purpoſe appointed, or by church-wardens, without the conſent of the veſtry, ſhall be ſufficient to paſs the ſame; and that no alienation hereafter made by miniſters, of lands by them held in ſucceſſion, ſhall be valid any longer than during ſuch alienors continuing miniſters, unleſs ſuch miniſters be miniſters of particular towns, diſtricts or precincts, and make ſuch alienation with their conſent reſpectively, or unleſs ſuch miniſters ſo aliening be miniſters of epiſcopal churches, and the ſame be done with the conſent of the veſtry; and the ſeveral churches in this Commonwealth, not being epiſcopal churches, are hereby empowered to chooſe a committee to call the deacons or other church officers to an account; and if need be, commence and proſecute any ſuits touching the ſame, and alſo to adviſe and aſſiſt ſuch deacons in the adminiſtration of the affairs aforeſaid.

Income of the grants not to exceed £.300 per annum.

SECT. 2. *And be it further enacted*, That the income of the grants made, or to be made to any one ſuch body-politic, for pious and charitable uſes, ſhall not exceed the ſum of *Three Hundred Pounds* per annum.

[This Act paſſed *February* 20, 1786.]

An ACT for regulating Fences.

Fence-viewers to be choſen annually and ſworn.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That in every town and diſtrict within this Government, there ſhall be choſen annually by the inhabitants thereof, at the time of their meeting for the choice of town officers, two or more judicious and diſcreet freeholders, being inhabitants of the ſame town or diſtrict, to be Fence-Viewers, to be ſworn as other town officers are ſworn to the faithful diſcharge of the duties of their office, each of whom, in caſe of refuſal, after ſeven days' notice, ſhall pay a fine of *Thirty Shillings*, and another perſon ſhall be forthwith choſen in his ſtead, the fine to be to the uſe of the ſame town or diſtrict.

In caſe of refuſal, penalty.

Fences of four feet high to be accounted legal and ſufficient.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That all fences of four feet high, and in good repair, conſiſting of rails, timber, boards or ſtone walls; and alſo brooks, rivers, ponds, creeks, ditches and hedges, or other matter or thing equivalent thereto, in the judgment of the Fence-Viewers, within

in whoſe juriſdiction the ſame ſhall lie, ſhall be accounted legal and ſufficient fences; and the reſpective occupants of lands incloſed with fence, ſhall keep up and maintain partition fences between their and the next adjoining incloſures, in equal halves, ſo long as both parties continue to improve the ſame; and in caſe either party ſhall neglect or refuſe to repair or rebuild the fence which of right he ought to maintain, the aggrieved party may forthwith apply to two or more Fence-Viewers of ſuch town, duly choſen and ſworn, to ſurvey the ſame; and upon their determination that the fence is inſufficient, they ſhall ſignify the ſame, in writing, to the occupant of the land, and direct him to repair or rebuild the ſame within ſix days; and if the ſame fence ſhall not be repaired or rebuilt within the ſaid term of ſix days, it ſhall be lawful for the complainant that improves the lands adjoining, to make up, amend or repair the deficiency; and when the ſame ſhall be completed and adjudged ſufficient by two or more of the Fence-Viewers, and the value thereof, together with the Fence-Viewers' fees aſcertained in writing, the complainant ſhall have a right to demand and receive of the occupant, leſſor or freeholder of the land where the fence was deficient as aforeſaid, at his election, double the ſum thus aſcertained as aforeſaid, for the expenſe of amending, ſurveying and viewing the fence; and in caſe of neglect or refuſal to make payment thereof, for the ſpace of one calendar month after demand made of the perſon againſt whom he ſhall make his election, he may ſue for and recover the ſame, by a ſpecial action of the caſe in any court proper to try the ſame, and intereſt, *One per cent.* per month, until judgment ſhall be rendered therefor.

Partition fences to be maintained by the occupants in equal halves. And in caſe.

Penalty for not repairing deficient fences.

How to be recovered.

When diſputes ariſe about the reſpective occupants' right in partition fences.

To whom application is to be made.

SECT. 3. *And be it further enacted*, That when any diſpute ſhall ariſe about the reſpective occupant's right in partition fences, and his or their obligation to maintain the ſame, upon application made by either party to two or more Fence-Viewers of ſuch town where the lands lie, they are hereby empowered after due notice to each party, to attend at time and place, if they ſee cauſe, to aſſign to each party his ſhare thereof, in writing: which aſſignment being recorded in the Town-Clerk's office, ſhall be binding upon ſuch perſons, and the ſucceeding occupiers of the reſpective lands, and they obliged always thereafter to maintain their part of ſaid fence; and in caſe any of the parties ſhall refuſe, or neglect to erect, keep up and maintain the part to ſuch party aſſigned, the ſame may be done by the aggrieved party, in the manner before in this Act provided, and for which he ſhall be entitled to double the ſum aſcertained, in manner as aforeſaid, and to be recovered in like manner. And all diviſional fences between man and man ſhall be kept in good repair throughout the year, unleſs the occupiers of the lands on both ſides ſhall otherwiſe agree.

And in caſe.

SECT.

SECT. 4. *And be it further enacted by the authority aforesaid,* That when lands belonging to, or occupied by different persons, and subjected to be fenced, are bounded upon, or divided from each other by any brook, pond or creek, which of itself is not a sufficient fence in the judgment of the Fence-Viewers, and it is in their opinion impracticable without unreasonable expense for the partition fence to be made in the middle or other part thereof, being the true boundary line between them; if, in such case, the occupant of the land on one side shall refuse or neglect to join with the occupant of the land on the other side in making a partition fence on one side or the other, or shall disagree respecting the same, then two or more Fence-Viewers of the town or towns wherein such lands lie, on application to them made, shall forthwith view such brook, river, pond or creek; and if they shall determine the same not to answer the purpose of a sufficient fence, and that it is impracticable to fence at the true boundary line; they shall judge and determine how, or on which side thereof the fence shall be set up and maintained, or whether partly on one side and partly on the other side, as to them shall appear just, and reduce such their determination to writing, having first given notice to the parties to be present at such assignment: and if either of the parties shall refuse or neglect to make up and maintain the part of the fence to such party belonging, according to the Fence-Viewer's determination in writing, as aforesaid, the same may be done and performed, as in this Act is before provided, and the delinquent party subject to the same costs and charges, and to be recovered in like manner.

When lands occupied by different persons are bounded upon brooks, ponds, &c.

In such cases.

SECT. 5. *And be it further enacted by the authority aforesaid,* That where any lands belonging to two persons in severalty shall have been improved in common without a partition fence between them, and one of the occupants shall be desirous to improve his part in severalty, and the other occupant shall refuse or neglect, on demand, to divide the line where the fence ought to be built, or to build a sufficient fence on his part of the line when divided, it shall be in the power of the party desiring it, to have the same divided and assigned by two or more of the Fence-Viewers of the same town, in the way and manner in this Act provided; and the same Fence-Viewers may, in writing, assign a reasonable time, having regard to the season of the year, for making up the fence; and if the occupant complained of shall not build and erect his part of the fence within the time so assigned, it shall and may be lawful for the other party, after having made up his own part of the fence, to make up the other's part, and recover therefor double the sum it shall cost, with the fees of the Fence-Viewers, in the way and manner in this Act before provided.

Where lands belonging to two persons have been improved without a partition fence, and one of the occupants shall be desirous to improve his part in severalty, the other occupant refusing, the Fence Viewers to divide the same.

SECT. 6. *And be it further enacted,* That when one party shall cease to improve his land, or shall lay his inclosure, before

Parties ceasing to improve their lands or shall lay inclosures in common, not to take away any part of the partition fence.

fore under improvement, in common, he shall not have a right to take away any part of the partition fence that to him belongs, adjoining to the next inclosure that is improved: Provided the party continuing to improve will allow and pay therefor, so much as two or more Fence-Viewers shall, in writing, determine the reasonable value thereof. And whenever any lands which have laid unimproved and in common, shall be afterwards inclosed or improved by depasturing, the occupant, lessor or freeholder thereof shall pay for the one half of each partition fence standing upon the divisional line between the same land and the land of the inclosures of any other occupant or proprietor, the value and part thereof to be ascertained, in writing, in case they shall not agree between themselves, by two or more of the Fence-Viewers of the same town wherein such line lies; and in case such occupant, lessor, or proprietor as aforesaid, shall neglect or refuse to pay for a moiety of the partition fences, for the space of thirty days after demand made (the value having been ascertained as aforesaid) the proprietor of the fence may have and maintain in form aforesaid, an action of the case for such value and the costs of ascertaining the same. And in all cases where the line upon which partition fence is to be made or divided is the boundary line of one or more towns, or partly in one town and partly in another town, a Fence-Viewer shall be taken from each town.

Where partition fences are on the boundary lines of one or more towns, a Fence Viewer to be taken from each.

When a water fence is necessary, it shall be done in equal halves.

Sect. 7. *And be it further enacted*, That when a water fence, or fence running into the water is necessary to be made, the same shall be done in equal halves, unless by the parties otherwise agreed: and in case either party shall refuse or neglect to make or maintain the share to such party belonging, similar proceedings shall be had, as in other cases of the like kind respecting fences out of the water, in this Act mentioned.

Proviso.

Provided, That nothing in this Act contained shall extend to house lots, the contents of which do not exceed half an acre; but if the owner or owners of such lots shall improve, his neighbour shall be compellable to make and maintain one half of the fence between them, whether he improve or not; or to make void any written agreement respecting the making or maintaining partition fences.

Fence-Viewers neglecting their duty,

Forfeiture.

Their fees.

Sect. 8. *And be it further enacted*, That any Fence-Viewer duly chosen and sworn, who, on due notice given him and being requested by any person interested to view any fence complained of as insufficient, shall neglect forthwith to attend the same, shall forfeit and pay the sum of *Twenty Shillings*, to him or them who shall sue for the same, within forty days after such neglect; and each Fence-Viewer shall be paid *Five Shillings* a day, *Two Shillings and Eight Pence* for half a day, and under that *One Shilling and Six Pence*, for the time he shall be engaged in the business of his office, by the person employ-

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ing him. And in case the complainant shall neglect to pay the Fence-Viewers their legal fees within thirty days after the service done, they may severally recover by an action of the case, double the amount of such fees; and each Fence-Viewer may be a witness, for or against his companion in such suit. And all laws heretofore made respecting partition fences, so far as they relate to lands held or improved in severalty, shall be, and hereby are repealed.

Laws heretofore made repealed.

[This Act passed *February* 21, 1786.]

An ACT concerning general and common Fields.

Addit. Acts, Feb. 18, 1795, and June 15, 1796.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That in any and every town or plantation in this Commonwealth where several allotments of land are inclosed and fenced in one general field, or where they have been so inclosed, fenced and improved, or where all the proprietors of any land shall hereafter see cause to inclose, fence and improve the same in such manner, such proprietors may, some time in *March*, annually, and from time to time as they judge proper, meet together to make such rules and adopt such modes of improvement as they shall think just and equitable and most for the general benefit; and the proprietor or proprietors of each lot respectively, during the time of his or their pasturing, planting, mowing, or otherwise improving his or their part in such general field, shall make and maintain his or their respective part of the whole fence, according to the quantity of acres of land contained in his or their allotment, until the major part of the propriety, at a meeting of such proprietors legally warned for that purpose, shall see cause to alter the form of their improvement. And for the better enabling such proprietors to call a meeting for the ends aforesaid, it shall be in the power of any Justice of the Peace for the county where such lands lie, upon application to him made by any two of the proprietors of such general fields, to issue out a warrant for such meeting; which warrant, and also the notification of the meeting, shall express the business thereof, and shall be conducted in the same manner as those for calling a meeting of proprietors of common lands prescribed by "An Act relating to lands, wharves and other real estate undivided and lying in common," passed *March* 10, 1784. And the whole general fence shall be measured, and each proprietor's part set out and apportioned by two or three discreet indifferent persons appointed and sworn for that purpose by any Justice of the Peace for the said county, unless the major part of the propriety agree and proportion the same among themselves. And when

Proprietors of general fields, &c. may meet together annually, to make & adopt rules and modes of improvement.

Proprietor of each lot to maintain his part of the whole fence, until, &c.

Justices of the Peace empowered to issue a warrant for a meeting.

The whole general fence shall be measured, and each proprietor's part apportioned.

when the proportion of each proprietor in such general fence is adjusted and determined, the same shall be entered upon record by the Clerk of the propriety; and where there is no such Clerk, by the Clerk of the town wherein the land lies, any law, usage or custom to the contrary notwithstanding.

Charges of dividing, &c. how borne.

SECT. 2. *And be it further enacted by the authority aforesaid,* That the charge arising by dividing and setting off the several parts of such fence to and among the proprietors of lands inclosed and fenced in one general field, and also the charge of making and maintaining of such fence as cannot justly be set off to any particular proprietor or proprietors, as his or their part, shall be borne by the several proprietors in proportion to their respective interests in such field.

Proprietors empowered to raise such sums of money as they shall judge necessary.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the proprietors of such general fields respectively shall be and are hereby fully authorized and empowered, in a proprietors' meeting for that purpose regularly convened by a major vote of the proprietors then present (the vote to be collected according to the interest of the proprietors) to agree upon and pass one or more votes for the raising and collecting such sum or sums of money from time to time as they shall judge necessary for defraying the charges aforesaid, and for carrying on, or managing any common affairs relating to such proprietors; and that they be alike empowered to choose three or five Assessors for the assessing and apportioning such sum or sums so agreed on and voted upon the proprietors of such fields, according to their several interests therein; and to appoint a Collector or Collectors to gather in and collect the same; which Collector or Collectors shall be and are hereby fully empowered to levy and collect the sum or sums so set and apportioned for such proprietors to pay, in the same manner as Constables of towns within this Commonwealth are empowered to levy and collect the public rates or taxes; and to pay in the same to the proprietors or their Clerk, who is hereby empowered to grant warrants, for the levying and collecting such assessment at such time as shall be by them appointed for the payment thereof; and such Clerk shall be accountable to the proprietors therefor: the person or persons so assessing the said proprietors, and the Collector or Collectors that shall be so appointed for the gathering and collecting the sum or sums so granted and agreed upon by the said proprietors to be assessed and collected as aforesaid, shall be under oath for the true and faithful performance of their services respectively; which oath shall be administered to them as the law provides for swearing town officers.

To choose Assessors and Collectors.

Proprietors' Clerk empowered to grant warrants for levying and collecting assessments.

Assessors and Collectors to be under oath.

Proprietors aggrieved or overrated, at liberty to apply for relief to the Court of Sessions.

Provided nevertheless, That any such proprietor who apprehends himself aggrieved, or over rated in the making or apportioning such assessment, shall have liberty to apply to the Justices of the General Sessions of the Peace in the respective counties

counties where such fields lie, for relief; and in such case the said Justices are hereby fully empowered to grant relief accordingly; and their judgment shall be final.

Hay-Wards or Field-Drivers may be chosen.

Sect. 4. *And be it further enacted by the authority aforesaid*, That the proprietors aforesaid, or the major part of such of them as shall be present at a meeting legally warned for that purpose, may choose Hay-Wards or Field-Drivers, who shall be under oath, and shall have the same powers as if they had been chosen by a town.

Proprietors trespassing, shall be proceeded with as if they owned no land in the field.

Sect. 5. *And be it further enacted*, That if any proprietor in any common or general field shall put, or cause to be put therein any horse, cattle, sheep, or other creature, over and above the number allowed him, or before the day agreed upon; or keep them longer there than the time set and limited by a major vote of the proprietors, he shall be deemed a trespasser; and his creatures so put in shall be proceeded with by any of the proprietors as creatures taken damage faisant, to all intents and purposes, as much as if he owned no land within such general field.

Trespasses done by reason of the insufficiency of fences adjoining, damages shall be answered according to appraisement.

Sect. 6. *And be it further enacted by the authority aforesaid*, That when and so often as any trespas or trespasses, shall be done in any common or general field by reason of the insufficiency of the fence belonging to any person owning the adjoining land, the party or parties injured shall forthwith procure two sufficient persons of good repute to view and adjudge of the damage done, giving notice of such trespas to the owner or claimer of the horse, cattle, sheep or other creature that did the same (if he be known and resident in the same town or near thereto) that he may be present, and nominate one of the appraisers of such damage, if he see cause: and the damage shall be answered according to such appraisement. And where damage happens through the insufficiency of the fence, the owner or occupant of the land to which the defective fence belongs, shall be liable to answer and make good all such damage.

Each proprietor shall once in two years run lines, &c.

Sect. 7. *And be it further enacted*, That each proprietor of lands lying unfenced, or in any common field, shall, once in two years, on six or more days' warning, previously given him by the proprietor or proprietors of the land next adjoining, run the lines, and make or keep up the boundaries between their respective lands by sufficient meer-stones, on pain that every party so neglecting or refusing shall forfeit the sum of *Ten Shillings* to the party moving or requesting to run the line; the conviction of such neglect or refusal being had before any Justice of the Peace within the same county, who is hereby empowered to hear and determine the case.

Forfeiture for neglect.

Sect. 8. *And be it further enacted*, That it shall and may be lawful to and for the proprietors who own the major part of

Proprietors may diſſolve and diſcontinue their general field.

the intereſt or property in any common or general field, at a legal meeting to be warned for that purpoſe, to diſſolve and diſcontinue ſuch field; ſix months being allowed to elapſe before ſuch diſcontinuation.

Proviſo.

SECT. 9. *Provided always, and be it further enacted,* That nothing contained in this Act ſhall prevent or hinder the proprietors of any ſuch common field already fenced from making and maintaining their fences according to rules and orders formerly agreed on by them at any meeting legally warned.

Votes to be collected and counted according to the intereſt of the proprietors preſent at meetings.

SECT. 10. *And be it further enacted by the authority aforeſaid,* That at every meeting of ſuch proprietors the votes ſhall, by the Moderator, be collected and counted according to the intereſts of the proprietors preſent, where ſuch intereſts are known. And whereas it often happens that horſes, cattle, and other creatures are clandeſtinely turned into general fields, or, being unruly, break into the ſame in places where the fence is good and ſufficient according to law; and when, in ſuch caſes, proprietors of general fields impound horſes, cattle or other creatures, the owners replevy them becauſe the fence incloſing the general field is deficient in ſome diſtant place from that where the horſes, cattle or other creatures entered the ſame, and in conſideration of ſuch deficiency judgment is unreaſonably recovered againſt ſuch proprietors:

When horſes, cattle, &c. are clandeſtinely turned into any general field, and are impounded, and a writ of replevin is purchaſed by the owner, judgment may be given in favour of the proprietor of the field.

SECT. 11. *Be it therefore further enacted by the authority aforeſaid,* That whenever horſes, cattle, or other creatures, ſhall be clandeſtinely turned into any general field, or, being unruly, break into the ſame, and ſhall be taken and impounded by a proprietor thereof, and a writ of replevin ſhall be purchaſed by the owner of the horſes, cattle, or other creatures ſo impounded, for the purpoſe of replevying them, it ſhall be in the power of the Court or Juſtice before whom the action ſhall be brought, to give judgment in favour of the proprietor of the general field, upon his producing ſatisfactory evidence to the ſaid Court or Juſtice, that the horſes, cattle, or other creatures replevied as aforeſaid, were either clandeſtinely turned into the general field, or broke into the ſame in a part thereof where the fence was good and ſufficient according to law, ſome other parts of the fence incloſing the general field being deficient notwithſtanding.

And whereas it often happens in fencing general fields, for the conveniency of fencing, conſiderable quantities of rocky and barren land not capable of tillage, are taken into ſuch fields, the owners of which may be obliged to make fence, and alſo pay taxes equally with the other proprietors whenever an aſſeſſment is made by the proprietors of ſuch field; which is very unjuſt:

SECT. 12. *Be it therefore further enacted,* That all lands now lying in general fields, or that hereafter may be taken into the

the ſame, that are ſo rocky or barren that the owners thereof have never improved them, either by mowing, ploughing, or feeding, ſuch owners ſhall not be obliged to make, on account of ſuch lands, any part of the fence in compaſſing ſuch general fields; nor ſhall they be taxed for them in any rate or tax, raiſed by the proprietors of ſuch field, until they ſhall make improvement thereon.

Owners of rocky or barren lands, not obliged to make any part of the fence, &c Not to be taxed until they make improvement.

And whereas the minor part of the owners or proprietors of common fields, in ſome inſtances, have been and may be deſirous of a partition of ſuch field into two or more diſtinct fields, from a perſuaſion that their ſhares or lots might (if ſeparated and fenced off from the reſt) be improved much more to their advantage in ſome manner different from that agreed on by the majority: To the end therefore that ſuch of the owners as are or may be ſo minded, may not be unreaſonably reſtrained by the reſt from having ſuch partition:

Manner of proceeding, when any three or more proprietors are deſirous of a partition into two or more fields.

SECT. 13. *Be it enacted by the authority aforeſaid*, That when any three or more of the owners or proprietors of lots in any common or general field lying within one general fence or incloſure, ſhall make application, in writing, under their hands to the proprietors of ſuch field (at any meeting legally warned for that purpoſe) to have the lots or ſhares of the owners or proprietors ſo applying, or theirs with other lots or ſhares (taken together) to make one entire field, to be ſeparated from the reſt by one common fence, and to be improved as a diſtinct and ſeparate, but common field; in ſuch caſe, if the proprietors who have the greater part of the intereſt among thoſe who are preſent at ſuch meeting, ſhall withhold or refuſe their aſſent to ſuch diviſion or partition, it ſhall and may be lawful for the Juſtices of the Court of General Seſſions of the Peace for the ſaid county, upon application made to them, to appoint a committee of five freeholders within the ſaid county (under oath) to make the partition prayed for, if it ſhall appear to ſuch committee to be expedient, and to aſſign to each field its part or proportion of the diviſional fence in conſequence of ſuch partition, to be made, kept up and maintained by the proprietors of the reſpective common fields; and the return being made under the hand of the major part of ſuch committee, and accepted by the ſaid Court of Seſſions, the fields ſo ſeparated ſhall be conſidered as diſtinct and ſeparate common fields, and the owners or proprietors of each field a diſtinct and ſeparate propriety, as fully to all intents and purpoſes whatſoever, as the owners or proprietors of ſuch general field were conſidered before ſuch partition was made. *Provided*, That no order for partition be made, or committee appointed, until the reſt of the proprietors have been duly notified of ſuch application, and opportunity given them to make their objections thereunto; which notice ſhall be given by ſerving the Clerk of ſuch pro-

Proviſo.

prietors with a copy of such written application, thirty days at least before such order or appointment be made; and every committee that shall be appointed and employed as aforesaid, shall make return of their doings, in writing, under their hands, unto the said Court, as soon after as may be, for acceptance and confirmation: and the proprietors whose interest shall be so set off, as well as the remaining proprietors, shall have and enjoy all the powers and privileges which the proprietors of general fields are by law vested with.

[This Act passed *February* 24, 1786.]

An ACT to set off *Jonathan Pearson* from the South Parish in *Ipswich*, in the County of *Essex*, and to annex him to the first Parish in *Rowley*.

[This Act passed *February* 25, 1786.]

An ACT for incorporating the northerly Parish in the Town of *Shrewsbury*, in the County of *Worcester*, into a separate Town, by the Name of *Boylston*.

[This Act passed *March* 1, 1786.]

An ACT for annexing that Part of the Plantation, called *Flints-Town*, which lies in the County of *York*, to the County of *Cumberland*.

[This Act passed *March* 3, 1786.]

An ACT repealing one Clause of an Act passed in the Year One thousand seven hundred and eighty, entitled, "An Act for incorporating the easterly Part of the Town of *Sudbury*, in the County of *Middlesex*, into a separate Town, by the Name of *East-Sudbury*," and for prescribing the Manner in which the Bridges and long Causeways in the Town of *East-Sudbury*, pointed out in the said Act, shall be supported and maintained.

[This Act passed *March* 3, 1786.]

An

An ACT to prevent Gaming for Money or other Property.

Addit. Act, June 27, 1798.

WHEREAS the practice of gaming for money or other property is not only injurious in a high degree to the individuals concerned therein, but alſo in its tendency ruinous and deſtructive to the State : Preamble.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That all notes, bills, bonds, judgments, mortgages or other ſecurities or conveyances whatſoever, given, granted, drawn, entered into, or executed by any perſon or perſons whatſoever, where the whole, or any part of the conſideration of ſuch conveyances or ſecurities ſhall be for any money or other valuable thing whatſoever, won by gaming or playing at cards, dice or any other game or games whatſoever, or by betting on the ſide or hands of any perſon gaming, or for the reimburſing, or repaying any money knowingly lent, or advanced for any gaming or betting, or lent and advanced at the time and place of ſuch play, to any perſon or perſons, ſo gaming or betting, or that ſhall, during ſuch play, ſo play or bett, ſhall be void and of no effect ; and that where ſuch mortgages, ſecurities or other conveyances ſhall be of lands, tenements or hereditaments, or ſhall be ſuch as incumber or affect the ſame ; ſuch mortgages, ſecurities or other conveyance, ſhall enure, and be to the ſole uſe and benefit of ſuch perſon or perſons as ſhould, or might have, or be entitled to ſuch lands, tenements or hereditaments, in caſe the ſaid grantor or grantors thereof, or the perſon or perſons ſo incumbering the ſame, had been naturally dead ; and that all grants or conveyances to be made for the preventing of ſuch lands, tenements or hereditaments from coming to, or devolving upon ſuch perſon or perſons, hereby intended to enjoy the ſame as aforeſaid, ſhall be deemed fraudulent, void, and of no effect, or purpoſe whatever. Notes, bonds, &c. given for property won by gaming, declared void.

SECT. 2. *And be it further enacted,* That any perſon or perſons, who ſhall at any time, or ſitting, by playing at cards, dice, or any other game or games whatſoever, or by betting on the ſides or hands of ſuch as do game, loſe to any one or more perſon or perſons, ſo playing or betting, any ſum or ſums of money, or any other valuable thing whatſoever, and ſhall pay or deliver the ſame, or any part thereof, the perſon or perſons ſo loſing and paying or delivering the ſame, ſhall be at liberty to ſue for and recover the money or goods ſo loſt and paid or delivered, or any part thereof, or damages, to the full value of the ſame, from the reſpective winner or winners thereof, with coſts of ſuit, by action to be commenced within three months next after the loſing, paying or delivering the ſame, in which it ſhall be ſufficient for the plaintiff to allege, in an action of aſſumpſit, Perſons loſing money, &c. by gaming, may ſue for and recover the ſame of the perſon winning, with coſts of ſuit.

assumpsit, that the defendant had received to the plaintiff's use the money so lost and paid; and in an action of trover for the goods so lost and delivered, that they came to the hands of the defendant, without mentioning in the declaration the particular manner and occasion of the goods or monies being lost; and in case the person or persons who shall lose such money or other thing as aforesaid, shall not within the time aforesaid really and truly, without coven or collusion, sue and with effect prosecute for the money or other thing so by him or them lost and paid or delivered as aforesaid, it shall and may be lawful to and for any person or persons to sue for and recover treble the value of the money, goods or chattels, with full costs of suit, by action of debt upon this statute, against such winner or winners as aforesaid, one moiety thereof to the use of the person or persons that will sue for the same, and the other moiety to the use of the poor of the town where the offence shall be committed.

In case the person losing shall not sue within three months, it may be lawful for any other person to sue for and recover treble the value.

Persons convicted of winning money, &c.

Forfeiture.

Sect. 3. *And be it further enacted*, That any person who shall be convicted, on an indictment of the Grand Jury, before the Court of General Sessions of the Peace or the Supreme Judicial Court, of winning at any one time or sitting, of any person or persons, by gaming or betting as aforesaid, in money, goods or chattels, to the value of *Twenty Shillings*, or upwards, and of receiving the same or security therefor, shall, besides forfeiting double the amount or value of the money, goods or chattels so won and received to the poor of the town where the offence is committed, be adjudged incapable of holding, keeping or sustaining, directly or indirectly, any office of honour or profit in this Commonwealth, for the term of twelve months from the time of such conviction: *Provided always*, such indictment be found within eighteen months next after the offence committed.

Suits brought against persons winning, how conducted.

Sect. 4. *And be it further enacted*, That in suits hereafter brought by the person losing money, goods or chattels against the person winning the same, when it shall appear from the declaration, that the goods said to be lost came to the hands of the defendant, by gaming, or the money he had received was by gaming, then, and in such case, if the plaintiff shall offer to make oath, and if required by the Court where the trial is, shall actually swear to the losing the money, goods or chattels by gaming with the defendant, at the time and place alleged, judgment shall be rendered for the plaintiff to recover damage, to the amount of the goods or money the defendant has received of the plaintiff by gaming, with costs of suit, unless the defendant will swear that he did not receive of the plaintiff the money, goods or chattels for which he is sued, or any part of them, by gaming; and when the defendant discharges himself on oath as aforesaid, he shall recover of the plaintiff his reasonable costs.

Provided

Provided nevertheleſs, That nothing in this Act ſhall be ſo conſtrued as to prevent the ſupporting and proving any declarations on the aforeſaid actions, in the ſame manner as other declarations are proved, but it ſhall be conſidered as optional with the plaintiff either to proceed in proving his declaration in the way ſpecially provided in this Act, or in the ſame way other declarations are proved; any thing herein to the contrary notwithſtanding. Proviſo.

SECT. 5. *And be it further enacted*, That if any perſon ſhall play at cards, dice or billiards, or with any other implements uſed in gaming, in any tavern or houſe of entertainment or place licenſed for retailing ſpirituous liquors, or in any of the outhouſes, yards, gardens or appendages of the ſame, or ſhall, in any of the houſes or licenſed places aforeſaid, expoſe to view any of the implements aforeſaid, or ſhall be ſeen ſitting at any table therein with any of the ſaid implements before him, and ſhall be convicted thereof before any Juſtice of the Peace, or any Court of General Seſſions of the Peace, on the preſentment of a Grand Jury, the perſon ſo offending ſhall forfeit and pay a ſum not leſs than *Five*, nor more than *Sixty Shillings*, to the uſe of the poor of the town where the offence ſhall be committed. Penalty for playing at cards, dice or billiards, at any houſe of entertainment.

[This Act paſſed *March* 4, 1786.]

An ACT for adjourning *Northampton* Court, and to authorize any two of the Juſtices of the Supreme Judicial Court to do and perform the Buſineſs of the ſaid Court, in the Counties of *Plymouth* and *Barnſtable* reſpectively, at the next Seſſion of the ſaid Court in the ſaid Counties, in the Month of *May*, One thouſand ſeven hundred and eighty-ſix.

[This Act paſſed *March* 6, 1786.]

An ACT to ſet off *Daniel Fay*, *Eliſha Bemis*, *Phineas Bemis*, *John Leonard* and *Lydia Peirce*, from the Town of *Framingham*, in the County of *Middleſex*, and to annex them to the Town of *Southborough*, in the County of *Worceſter*.

[This Act paſſed *March* 7, 1786.]

An ACT for eſtabliſhing the Times and Place of holding the Court of Common Pleas and the Court of General Seſſions of the Peace, in the County of *Berkſhire*.

[This Act paſſed *March* 9, 1786.]

An ACT to prevent Tenants in common, joint Tenants and Coparceners, from committing Waſte, and for making Partition of their Intereſts, and alſo directing how joint Tenancies ſhall be created.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That if any perſon holding any lands in common and undivided, ſhall cut down, deſtroy or carry away any trees, timber, wood or underwood whatſoever, ſtanding or lying on ſuch lands, or ſhall dig up or carry off any ſtone or ore, or any other valuable matter, or make any other ſtrip or waſte thereon, without firſt giving notice, in writing, under his or their hands, unto all the perſons intereſted therein, or to their agents, factors or attornies, forty days beforehand, ſetting forth that he or they have occaſion for, and ſhall enter upon and improve ſuch lot or lots of land lying in common as aforeſaid, he ſhall forfeit and pay the ſum of *Forty Shillings* for every tree meaſuring one foot diameter, at the diſtance of two feet from the ground, and for all trees of greater dimenſions three times the value thereof, beſides *Forty Shillings* as aforeſaid, and *Twenty Shillings* for every tree or pole under the dimenſions of one foot diameter, and for other wood or underwood ſo cut down, deſtroyed or carried away, treble the value thereof, and treble damages for any other ſtrip or waſte. The ſaid forfeitures may be recovered by any one or more of the perſons intereſted in the ſame lands who may proſecute and ſue for the ſame in an action of treſpaſs in his or their own names, as well on the behalf of the other co-tenants, except the defendant, without being held to name them in the writ, as of him or themſelves, one moiety of the aforeſaid penalties to be for the uſe of ſuch perſon or perſons who ſhall ſue for the ſame, and the other to and for the uſe of all the co-tenants, excepting the defendant, in proportion to their reſpective intereſt in the land where the treſpaſs hath been committed.

Penalty for cutting down or deſtroying any trees, &c.

How recovered.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That all perſons having or holding, or that hereafter ſhall have or hold any lands, tenements or hereditaments, as tenants in common, joint tenants or coparceners, may be compelled by writ of partition at the common law, to divide the ſame. And when any writ ſhall be brought and ſerved at the ſuit of any one or more perſons ſo intereſted in any lot or lots of land, tenements or hereditaments, or a petition ſhall be pending in Court for a partition of the ſame, no perſon or perſons whatſoever, having a right or intereſt in any ſuch lands, tenements or hereditaments, or holding any part or ſhare of the ſame in common as aforeſaid, while ſuch ſuit or petition is depending, ſhall or may cut down, deſtroy or carry away any trees, timber, wood or

Perſons holding lands, &c. as tenants in common, may be compelled to divide the ſame.

or underwood, ſtone or ore, or other valuable matter whatſoever, ſtanding, growing or lying on or belonging to ſuch lands, or ſhall otherwiſe hurt or damage any ſuch lands, tenements or hereditaments, until partition can be made of the ſame according to law, on pain that every perſon or perſons ſo offending ſhall incur the like forfeitures and penalties as are before in this Act mentioned, to be recovered in like manner as before named; and for ſuch uſes as are before mentioned and declared.

Penalty for committing waſte before partition can be made.

And to prevent any doubts reſpecting the manner heirs are to proſecute in the courts of law, for poſſeſſion of inheritance deſcended to them from a common anceſtor:

Manner heirs are to proſecute for poſſeſſion of inheritance.

SECT. 3. *Be it further enacted by the authority aforeſaid*, That in actions of waſte, ejectment, or other real actions, where poſſeſſion of the inheritance alleged to have deſcended is the object of the ſuit, they may all, or any two or more of them, join therein, or each one may proſecute for his particular ſhare of ſuch inheritance, and the ſame rule ſhall extend to joint tenants who are or may be diſſeized.

And whereas it often happens that eſtates in joint tenancy, are created againſt the intentions of the parties to gifts, grants, feoffments and other conveyances, and alſo of teſtators, through the want of the knowledge of the proper terms to create eſtates in common, and the latter eſtates are more beneficial to the Commonwealth, and conſonant to the genius of Republics:

How gifts, grants and other conveyances of lands &c. made to two or more perſons, ſhall be taken, deemed and adjudged.

SECT. 4. *Be it further enacted by the authority aforeſaid*, That all gifts, grants, feoffments, deviſes, and other conveyances of any lands, tenements, and hereditaments, which have been or ſhall be made to two or more perſons, whether for years, for life, in tail or in fee, ſhall be taken, deemed and adjudged, to be eſtates in common, and not in joint tenancy, unleſs it has been or ſhall be therein ſaid, that the grantees, feoffees or deviſees, ſhall have or hold the ſame lands, tenements or hereditaments jointly, or as joint-tenants, or in joint tenancy, or to them and the ſurvivor or ſurvivors of them, or unleſs other words be therein uſed, clearly and manifeſtly ſhowing it to be the intention of the parties to ſuch gifts, grants, feoffments, deviſes or other conveyances, that ſuch lands, tenements and hereditaments ſhould veſt, and be held as joint eſtates, and not as eſtates in common.

Proviſo.

Provided nevertheleſs, Where any eſtate has already veſted in the ſurvivor or ſurvivors, upon the principle of joint-tenancy, it ſhall be held in like manner, as it would have been held if this Act had never been paſſed; any thing therein to the contrary notwithſtanding.

Former act repealed, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the Act entitled, "An Act to prevent coparceners, joint-tenants and tenants in common, from committing waſte, and for making partition of their intereſt; and for aboliſhing the principle of ſurvivorſhip in joint-tenancy," paſſed *March* ſixteenth,

teenth, one thouſand ſeven hundred and eighty-four, be and hereby is repealed.—This Act to be in force from and after the firſt day of *June*, *Anno Domini* one thouſand ſeven hundred and eighty-ſix.

[This Act paſſed *March* 9, 1786.]

An ACT for altering the Place of holding one Term of the Court of Common Pleas and Court of General Seſſions of the Peace, in the County of *Lincoln*; and for eſtabliſhing an additional Term of the ſaid Courts within the ſame County.

[This Act paſſed *March* 11, 1786.]

An ACT for annexing a certain triangular Piece or Parcel of Land to the Town of *Sanford*, which *Nathaniel Conant* purchaſed of this Commonwealth.

[This Act paſſed *March* 11, 1786.]

An ACT giving to *Paul Revere* and *John Noyes* the excluſive Privilege of erecting a Steam Engine for manufacturing Iron.

[This Act paſſed *March* 14, 1786.]

An ACT for the Puniſhment of Fornication, and for the Maintenance of Baſtard Children.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That if any man commit fornication with any ſingle woman, upon due conviction thereof, he ſhall be fined to the uſe of the county where the crime may be committed, not exceeding the ſum of *Five Pounds*, nor leſs than *Thirty Shillings*; and if he declare himſelf unable, or ſhall neglect, for the ſpace of twenty-four hours after paſſing the ſentence, to pay the fine and coſts, then he ſhall be whipped, not exceeding ten ſtripes, at the diſcretion of the Juſtices of the Seſſions, before whom the matter ſhall be tried; and the woman ſo offending, upon due conviction thereof, ſhall be fined to the uſe of the county where the crime may be committed, not exceeding the ſum of *Three Pounds*, nor leſs than *Six Shillings*; and if ſhe ſhall declare herſelf unable, or ſhall neglect, for the ſpace of twenty-four hours, to pay the fine and coſts, then for the firſt offence ſhe

Penalty for commiting fornication.

ſhe ſhall be committed to priſon, or to the houſe of correction, there to remain not more than ten days, nor leſs than twenty-four hours; and for each offence after the firſt, ſhe ſhall pay a fine not exceeding *Six Pounds*, nor leſs than *Twelve Shillings*; and if ſhe ſhall declare herſelf unable, or ſhall neglect, for the ſpace of twenty-four hours, to pay the fine and coſts, then ſhe ſhall be committed to priſon, or to the houſe of correction, there to remain not more than thirty days, nor leſs than forty-eight hours.

Proviſo, when any woman ſhall confeſs herſelf guilty before a Juſtice of the Peace.

Provided nevertheleſs, If any woman guilty of the crime aforeſaid, ſhall appear before any Juſtice of the Peace within the county where ſuch offence may be committed, and confeſs herſelf to be guilty as aforeſaid, and offer to pay into the hands of the ſaid Juſtice, for the firſt offence, the ſum of *Six Shillings*, and for any offence after the firſt, the ſum of *Twelve Shillings*, it ſhall be the duty of ſuch Juſtice to receive ſaid fine, or to bind her over to the next Court of General Seſſions of the Peace, to be holden within and for ſaid county, at his diſcretion; and a certificate of the payment of the ſaid fine, ſigned by the ſame Juſtice, and filed in the Clerk's office of the Court of the General Seſſions of the Peace, ſhall be a full bar to any proceſs againſt her for the ſame offence, unleſs ſuch proceſs be commenced previous to the filing of the ſaid certificate in the Clerk's office as aforeſaid.

When any woman is delivered of, or is pregnant with a baſtard child, and ſhall accuſe any man of being the father, &c. he ſhall be adjudged the reputed father.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That whenever any woman who hath been delivered of a baſtard child, or being pregnant with a child which, if born alive, may be a baſtard, ſhall accuſe any man of being the father thereof, before any Juſtice of the Peace, upon examination on oath, and being put upon the diſcovery of the truth reſpecting the ſame accuſation in the time of her travail, ſhall thereupon accuſe the ſame perſon of being the father of the child of which ſhe is about to be delivered, and ſhall continue conſtant in ſuch accuſation, and ſhall proſecute him as the father of ſuch child before the Court of the General Seſſions of the Peace, in the manner herein after preſcribed (in which proſecution ſhe ſhall be admitted as a competent witneſs, and her credibility be left to the Jury) he ſhall be adjudged the reputed father of ſuch child, notwithſtanding his denial, and ſtand charged with the maintenance thereof, with the aſſiſtance of the mother, as the Juſtices of the ſame Court ſhall order; and ſhall give ſecurity to perform the ſaid order, and to ſave the town or place which might be otherwiſe chargeable with the maintenance of ſuch child, free from charge for its maintenance; and may be committed to priſon until he find ſureties for the ſame, unleſs the pleas and proofs made and produced on the behalf of the man ſo accuſed, and other circumſtances, be ſuch as the Jury, by whom the iſſue, whether he is guilty or not guilty, ſhall be tried, ſhall find him not guilty; in which caſe the Juſtices of the ſaid Court

Court shall acquit him thereof; and the verdict of the Jury of the same Court, whether guilty or not guilty, shall be final respecting such issue. *Provided*, That no woman shall be admitted as a witness as aforesaid, who has been convicted of any crime, which would by law disqualify her from being a witness in any other cause. And every Justice of the Peace, to whom complaint is made by any woman, that she hath been delivered, or is pregnant as aforesaid, and desires a prosecution against the man whom she accuses of being the father of the child, the Justice shall then proceed to take her accusation and examination, in writing, under oath, respecting the man so accused, and the time and place where she was begotten with child, with such other circumstances as he shall judge necessary for the discovery of the truth of such accusation; which examination shall be given in evidence on the trial of the issue; and at his discretion may bind him that is so accused to the next General Sessions of the Peace, with sufficient surety or sureties, to answer to such accusation, and abide the order of Court thereon. And if the woman be not then delivered, or be unable personally to attend the said Court, may order the continuance or renewal of his and her bond, that they may be forth coming at the next Court of General Sessions of the Peace after the birth of the child; and the continuance of such bonds aforesaid to the next Court of General Sessions of the Peace, entered thereon by order of the said Court (unless the surety or sureties shall object thereto) shall have the same force and effect as a recognizance taken in Court for the next term.

Proviso.

Duty of Justices of the Peace when complaint is made by any woman that she is pregant, &c.

Laws heretofore made, repealed.

SECT. 3. *And be it further enacted by the authority aforesaid*, That all laws heretofore in force respecting the subject matter of this Act, be and they are hereby declared to be repealed; touching all cases, that may happen after the passing of this Act.

[This Act passed *March* 15, 1786.]

An ACT for incorporating certain Persons by the Name of *The Scots Charitable Society*.

[This Act passed *March* 16, 1786.]

An ACT to ratify certain Assessments made by the Proprietors of *Shapleigh*, so called, in the County of *York*.

[This Act passed *March* 16, 1786.]

An

An ACT for regulating Marriage and Divorce.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That no man or woman shall intermarry within the degrees hereafter named, *that is to say :—*

No man shall marry his	No woman shall marry her
Mother,	Father,
Grandmother,	Grandfather,
Daughter,	Son,
Son's Daughter,	Son's Son,
Daughter's Daughter,	Daughter's Son,
Step-Mother,	Step-Father,
Grandfather's Wife,	Grandmother's Husband,
Son's Wife,	Daughter's Husband,
Son's Son's Wife,	Son's Daughter's Husband,
Daughter's Son's Wife,	Daughter's Daughter's Husband,
Wife's Mother,	Husband's Father,
Wife's Grandmother,	Husband's Grandfather,
Wife's Daughter,	Husband's Son,
Wife's Son's Daughter,	Husband's Son's Son,
Wife's Daughter's Daughter,	Husband's Daughter's Son,
Sister,	Brother,
Brother's Daughter,	Brother's Son,
Sister's Daughter,	Sister's Son,
Father's Sister,	Father's Brother,
Mother's Sister,	Mother's Brother.

Marriages within the degrees named, deemed incestuous.

And if any man or woman shall intermarry within the degrees aforesaid, every such marriage shall be deemed, taken and adjudged incestuous, and shall be null and void; and the issue of all such incestuous marriages shall be deemed, taken and adjudged illegitimate, and be subjected to all the legal disabilities of such issue.

Marriages where either of the parties have a former wife or husband living, shall be void.

SECT. 2. *And be it further enacted by the authority aforesaid,* That all marriages, where either of the parties shall have a former wife or husband living at the time of such marriage, shall be absolutely void, and no dower shall be assigned any widow in consequence of such marriage; and the issue thereof shall be deemed, taken and adjudged illegitimate, and be subject to all the legal disabilities of such issue.

In what cases divorces shall be decreed.

SECT. 3. *And it is further enacted by the authority aforesaid,* That divorces from the bond of matrimony shall be decreed, in case the parties are within the degrees aforesaid, or either of them had a former wife or husband alive at the time of solemnizing such second marriage, or for impotency or adultery in either of the parties, and for no other cause; and that divorce from bed and board may and shall be granted for the cause of extreme cruelty in either of the parties.

SECT.

In cases of collusion, no divorce shall be decreed.

SECT. 4. *And be it further enacted by the authority aforesaid*, That when it shall appear that the adultery or cruelty complained of is occasioned by the collusion of the parties, and done with an intention to procure a divorce, or that both parties have been guilty of adultery, in such case, no divorce shall be decreed.

When divorces are had for the causes of affinity or consanguinity, what lands, &c. shall be restored.

SECT. 5. *And be it further enacted*, That when a divorce shall be had for the causes of affinity, consanguinity, or of impotency of either of the parties, the wife shall have restored to her all her lands, tenements and hereditaments; and a judgment may be passed for a restoration to her of all or such part of the personal estate specifically, or the value thereof, which hath come to her husband's hands by force of the marriage, as the Justices of the Supreme Judicial Court, from all the circumstances of the case, shall determine equitable; and they may make use of such kind of process to carry their judgment into effect, as shall be necessary; and the Court, in case they think proper, may compel the husband to disclose, on oath, what personal estate he hath received in right of his wife, and how the same hath been disposed of, and what proportion thereof remained in his hands at the time of such divorce: and when the divorce shall be for the cause of adultery committed by the husband, the wife shall have her dower assigned her in the lands of the husband, in the same manner as if such husband was naturally dead; and where the divorce shall be occasioned by adultery committed by the wife, the husband shall hold her personal estate forever, and her real estate during his natural life, in case they have had issue born alive of her body during the marriage, otherwise during her natural life only, if he shall survive her.

Proviso.

Provided nevertheless, That the Court may allow her for her subsistence so much of such personal or real estate as they shall judge necessary.

When they are had because of the cruelty of the husband, what lands, &c. shall be restored to the wife.

And whenever a decree of divorce from bed and board shall be made because of the cruelty of the husband, the wife, if there be no issue living at the time of the divorce, shall be restored to all her lands, tenements and hereditaments, and be allowed out of his personal estate such alimony as the Court shall think reasonable, having regard to the personal property that came to the husband by the marriage, and his ability; but if there be issue living at the time of the divorce, then the Court, with respect to ordering restoration, or granting alimony as aforesaid, may do as they shall judge the circumstances of the case may require; and upon application from either party may, from time to time, make such alterations therein as may be necessary. And in case a divorce shall be decreed for cruelty in the wife, whether there shall be issue or not of the marriage at the time of the divorce, the Court may order to her a restoration

reſtoration of the whole or ſuch part of her lands, tenements and hereditaments, and may alſo aſſign alimony, as they may judge proper.

SECT. 6. *And be it further enacted by the authority aforeſaid*, If any perſons who ſhall be divorced for the cauſe either of affinity or conſanguinity ſhall, after ſuch divorce, cohabit together, ſuch perſons ſo offending ſhall be liable to all the pains and penalties provided by the laws then in being againſt inceſt; and if any perſons ſhall cohabit or live together in the ſame houſe after a divorce, for the cauſe of prior marriage or adultery, ſuch perſons ſhall be liable to all the pains and penalties provided by the laws then in being againſt adultery. Penalty for cohabiting together after being divorced.

Provided always, That no decree of divorce for or on account of adultery ſhall bar the iſſue of ſuch marriage from inheriting, but the queſtion of the right of ſuch child or children to inherit ſhall be tried and ſettled upon the principles of common law, in the ſame manner as though this Act had never been made. Proviſo.

And whereas it is a great expenſe to the people of this State to be obliged to attend at *Boſton* upon all queſtions of divorce, when the ſame might be done within the counties where the parties live, and where the truth might be better diſcerned, by having the witneſſes preſent in Court:

SECT. 7. *Be it therefore enacted by the authority aforeſaid*, That all queſtions of divorce and alimony ſhall be heard and tried by the Supreme Judicial Court holden for the county where the parties live, and that the decree of the ſame Court ſhall be final. Supreme Judicial Court to determine queſtions of divorce and alimony.

SECT. 8. *And be it further enacted*, That no cauſe of divorce or alimony ſhall be brought before the ſame Court, unleſs the party ſueing or complaining ſhall file his or her libel in the office of the Clerk of the ſaid Court, therein ſetting forth the cauſe of his or her complaint ſpecially, and ſhall cauſe the other party, if in this State, to be ſerved with an atteſted copy of the ſame, and with a ſummon to appear at the Court fourteen days at leaſt before the ſitting of ſaid Court where the cauſe is to be tried, otherwiſe in ſuch manner as the ſaid Court ſhall direct; and the ſaid Court ſhall have all the powers neceſſary to the conducting and finally iſſuing ſuch cauſes, according to the true intendment of this Act. No cauſe of divorce or alimony ſhall be brought, unleſs a libel is filed in the Clerk's office.

[This Act paſſed *March* 16, 1786.]

An ACT for the Choice and Appointment of Collectors of Rates and Taxes, and for aſcertaining their Power and Duty.

Addit. Acts, Mar. 26, 1788, June 15, 1789, and Feb. 28, 1795.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the qualified voters of any town or diſtrict, at the ſame

Towns empowered to chooſe Collectors of taxes, and agree upon their pay.

ſame time they chooſe Conſtables, may, if they ſee cauſe, likewiſe chooſe ſome meet perſon or perſons to be Collector or Collectors of the rates or taxes that ſhall be aſſeſſed upon ſuch town or diſtrict, and agree upon what ſum ſhall be allowed and paid unto ſuch Collector or Collectors for his or their ſervices; but if ſuch Collector or Collectors ſo to be choſen ſhall refuſe to ſerve, or if no Collector ſhall be choſen, then the Conſtable or Conſtables of ſuch town or diſtrict ſhall collect and gather ſuch rates and taxes; and every Collector of taxes, or Conſtable, ſhall have a warrant from the Selectmen or Aſſeſſors, empowering him to collect ſuch rates or taxes as ſhall be committed to him to collect, and he ſhall pay in the ſame according to the directions in ſuch warrant; and in caſe any Conſtable or Collector of taxes deceaſe before his perfecting the collection of any aſſeſſment committed to him to collect and pay into the ſtate treaſury, the Aſſeſſors for the time being, of ſuch town, diſtrict or plantation, ſhall nominate and appoint, at the charge of ſuch town, diſtrict, or plantation, ſome other fit perſon or perſons to perfect the ſame collection, and enable and empower ſuch perſon or perſons to collect the ſame, by granting a warrant to him or them for that purpoſe.

Perſons who refuſe to pay the ſums aſſeſſed, ſhall be diſtrained by their goods or chattels.

SECT. 2. *And be it further enacted*, That if any perſon ſhall refuſe to pay the ſum or ſums which he ſhall be aſſeſſed as his proportion to any rate or tax, in the liſt committed to any Conſtable or Collector, under the hands of the Aſſeſſors of ſuch town, diſtrict, plantation, precinct or pariſh, or the major part of them, upon demand thereof made by ſuch Conſtable or Collector, by virtue of the warrant to him given, it ſhall and may be lawful to and for ſuch Conſtable or Collector, and he is hereby authorized and required, in ſuch caſe, to diſtrain the perſon ſo refuſing by his goods or chattels, and the diſtreſs ſo taken to keep the ſpace of four days at the coſt and charge of the owner thereof; and if the owner do not pay the ſum or ſums of money ſo aſſeſſed on him within the ſpace of four days, then the ſaid diſtreſs ſhall be openly ſold at public auction, by the ſaid officer, for the payment of the ſaid money, notice of ſuch ſale being poſted up in ſome public place in the ſame town, diſtrict, plantation, precinct or pariſh, forty-eight hours before the ſale, and after the expiration of the four days aforeſaid; and the overplus ariſing by ſuch ſale, if any, over and above the charge of taking and keeping the ſaid diſtreſs, to be immediately reſtored to the former owner, with an account, in writing, of the ſale and charges; and if any perſon aſſeſſed as aforeſaid to the ſtate or other tax, ſhall refuſe or neglect to pay the ſum or ſums ſo aſſeſſed, by the ſpace of twelve days after demand thereof, and ſhall neglect to ſhew the Conſtable or Collector ſufficient goods or chattels whereby the ſame may be levied, in every ſuch caſe, he may take the body of the perſon ſo refuſing, and him commit unto the common gaol of the county,

If not paid within four days, the diſtreſs ſhall be ſold at auction.

Overplus to be reſtored.

Perſons who refuſe to pay ſtate or other taxes, for the ſpace of 12 days, may be committed to gaol.

county, there to remain until the ſame be paid, or he therefrom be diſcharged by due order of law.

Provided nevertheleſs, That in all caſes where there are, in the opinion of the Aſſeſſors, or a major part of them, juſt grounds to fear that any perſon or perſons, aſſeſſed as aforeſaid, may abſcond before the expiration of the ſaid twelve days, in ſuch caſes, it ſhall be in the power of the Conſtable or Collector to demand immediate payment. Proviſo.

SECT. 3. *And be it further enacted*, That where any town or diſtrict ſhall neglect to chooſe a Conſtable or Collector, or if any plantation ſhall neglect to chooſe a Collector to gather the rates or taxes granted by the General Court, that in ſuch caſe the Sheriff of the county, or his deputy, ſhall be and hereby is empowered and directed to collect ſuch rates or taxes, having received an aſſeſſment made of the proportion of the ſeveral perſons rateable in ſuch town, diſtrict or plantation, together with a warrant under the hands of ſuch Aſſeſſors as ſhall be appointed by the Court of General Seſſions of the Peace, in the county where ſuch deficient town, diſtrict or plantation lies, or under the hands of the Aſſeſſors of ſuch town, diſtrict or plantation, duly choſen by them reſpectively. When towns, &c. neglect to chooſe Conſtables or Collectors, Sheriffs are empowered to collect taxes.

SECT. 4. *And be it further enacted*, That the Sheriff or his deputy, upon the receiving ſuch aſſeſſment and warrant for collecting it, ſhall forthwith poſt in ſome public place of the town, diſtrict or plantation aſſeſſed, an atteſted copy of ſuch aſſeſſment and warrant, and ſhall make no diſtreſs for any of the ſums ſo aſſeſſed, till after thirty days from his poſting it up; and any perſon or perſons paying the ſum or ſums reſpectively aſſeſſed on him or them to the Sheriff, before the expiration of the aforeſaid thirty days, ſhall pay at the rate of *five per centum* over and above the ſum aſſeſſed, to the Sheriff, for his fees, and no more; but all ſuch as ſhall neglect to pay the ſum or ſums aſſeſſed beyond the thirty days after poſting up the copy of the aſſeſſment as aforeſaid, ſhall be proceeded againſt by the Sheriff, by way of diſtreſs or commitment to gaol, in the manner Collectors are by this Act directed and empowered to diſtrain or commit to gaol; and the ſaid Sheriff, or his deputy, may require ſuitable aid for that purpoſe, and they ſhall each one pay the fees for the Sheriff's ſervice and travel, as in other caſes where diſtreſs is made, or the perſon committed. Sheriff to make no diſtreſs till 30 days from his poſting up the aſſeſſment and warrant for collecting it. Sheriff's fees.

SECT. 5. *And be it further enacted*, That when any perſon ſhall remove from any town or place where he lived, or had his reſidence, at the time of making the liſt of any ſtate, town, county, precinct, plantation, or pariſh tax or aſſeſſment, not having before paid the reſpective ſum or ſums ſet upon him by ſuch liſts, it ſhall and may be lawful for the Conſtable or Collector, to whom any ſuch tax or aſſeſſment ſhall be committed, with a warrant to collect, and he is hereby authorized and empowered to demand the ſum or ſums aſſeſſed upon ſuch perſon, When perſons remove, not having paid their aſſeſſment, Conſtables or Collectors may demand the ſame in what place ſoever found.

ſon, in what town or place ſoever, within this Commonwealth, he may be found, and upon refuſal or neglect to pay the ſame, to diſtrain the ſaid perſon by his goods or chattels as aforeſaid; and for want of ſuch diſtreſs, to commit the party to the common gaol of the county where he ſhall be found, there to remain until payment be made.

How Collectors ſhall proceed with proprietors of real eſtate removing from the place where ſuch eſtate lies, after the ſame is aſſeſſed.

SECT. 6. *Be it enacted by the authority aforeſaid*, That if any owner or proprietor of land or other real eſtate ſhall remove out of the town, diſtrict, plantation, precinct, or pariſh, where ſaid land, or other real eſtate lies, after the ſame is aſſeſſed, to ſome other place within this Commonwealth or out of the limits thereof, and ſhall neglect or refuſe to pay the ſaid aſſeſſment by the ſpace of three months, from and after the time of ſuch removal; and if the Collector or Collectors, to whom ſuch aſſeſſment ſhall be legally committed, cannot, within the ſaid three months, find any perſonal eſtate belonging to ſuch perſon ſo removed ſufficient to pay the ſame, then ſuch Collector or Collectors ſhall proceed to ſell ſo much of the ſaid land or other real eſtate, as will amount to the aſſeſſment aforeſaid, together with the charges of ſuch ſale, in the ſame manner as is herein after provided for the ſale of lands belonging to non-reſident proprietors for the payment of taxes.

Directions to Collectors with reſpect to unimproved lands of non-reſidents or improved lands of proprietors living out of the Commonwealth.

SECT. 7. *And be it further enacted*, That where no perſon appears to diſcharge the taxes on the unimproved lands of non-reſident proprietors, or improved lands of proprietors living out of the limits of this Commonwealth, to the Collector thereof, he ſhall advertiſe in the public newſpapers of the printer to the General Court for the time being, three weeks ſucceſſively, the names of all ſuch proprietors, where they are by him known, with the ſum of the taxes aſſeſſed on their lands reſpectively, and alſo the time and place of ſale; and where they are not known, he ſhall, in the ſame manner, publiſh the ſum of the taxes on the ſeveral rights, numbers of lots, or diviſions; and where the name of the place in which ſuch lands lie, may have been altered by any Act of this Commonwealth, within three years next preceding ſuch advertiſement, he ſhall expreſs not only the preſent name, but the name by which the ſame was laſt known; and in either caſe ſhall poſt the ſame in ſome convenient and conſpicuous place in the ſame town or plantation, as the caſe may be, where the ſaid lands lie, and in three of the adjoining towns, at leaſt, for the term of three weeks previous to the time appointed for ſuch ſale; and if no perſon ſhall appear thereupon to diſcharge the ſaid taxes, and all neceſſary intervening charges, then the Collector aforeſaid ſhall proceed to ſell at public auction to the higheſt bidder (after waiting two hours from the time appointed for ſaid ſale) ſo much only of the ſaid lands as ſhall be ſufficient to diſcharge ſaid taxes, and the neceſſary intervening charges, having firſt given notice of the intended ſale thereof, and the time and

When no perſon appears to diſcharge taxes, after being notified, Collectors to proceed to ſell ſo much land as will diſcharge the ſame,

place

place when and where the ſame will be made as aforeſaid; and ſhall have power to adjourn from day to day (if neceſſary) to complete the ſaid ſale, not to exceed three days (waiting as aforeſaid) and ſhall give and execute a deed or deeds to the purchaſer or purchaſers, his or their heirs and aſſigns, expreſſing therein the cauſe of ſuch ſale, and ſaving to the aforeſaid proprietor or proprietors, the right of redemption of any lands ſo ſold, within any time for the ſpace of two years from the time of ſuch ſale; and the ſame ſhall be reconveyed to him or them, the ſaid proprietor or proprietors, on paying within two years as aforeſaid, the ſum ſuch land ſold for, with intereſt at the rate of *ten per cent.* per annum on ſaid ſum, together with all neceſſary intervening charges. *Provided nevertheleſs*, That the purchaſer or purchaſers as aforeſaid ſhall not make any ſtrip or waſte on the premiſes until the time of redemption ſhall have expired; and if the ſaid purchaſer or purchaſers ſhall make any ſtrip or waſte on the premiſes, as aforeſaid, he or they ſhall be liable to pay all damages to the original owner or owners, in as full and ample a manner as if he or they had not purchaſed the ſame.

Empowered to execute a deed to the purchaſer.

Proviſo.

SECT. 8. *And be it further enacted*, That when any ſtate or other rate or tax ſhall be made payable at two or more ſeveral times, or days of payment, and any perſon, being an inhabitant or dweller in any town, diſtrict or plantation, within this Commonwealth, at the time of making ſuch rate or tax, and being aſſeſſed thereunto, ſhall be about to remove from thence before the time that ſhall be prefixed for payment of the ſame, it ſhall and may be lawful for the Conſtable or Collector of the ſame town, diſtrict or plantation, to demand and levy the whole ſum which ſuch perſon may be aſſeſſed in his liſt or liſts, notwithſtanding the time for collecting the ſecond part of ſuch rate or tax may not then have arrived, and in default of payment to diſtrain for the ſame, or to take ſuch other courſe for the obtaining thereof as is herein before provided; and when the Conſtables or Collectors be anew choſen and ſworn, in any town, diſtrict, plantation, precinct or pariſh, before the former Conſtables or Collectors have perfected their collection of any ſtate or other tax or aſſeſſment to them committed to collect, ſuch former Conſtables or Collectors are hereby fully empowered and required to perfect all ſuch collections, and ſhall and may exerciſe the ſame powers and authority for the collecting and enforcing the payment thereof, as by this Act they might have done before other Conſtables or Collectors were choſen and ſworn.

When taxes are made payable at two or more times of payment, and perſons are about to remove, Collectors may demand and levy the whole ſum.

In default of payment, to diſtrain for the ſame.

When Conſtables or Collectors are anew choſen, former ones empowered to perfect their collections.

SECT. 9. *And be it further enacted*, That if any of the Collectors of the ſtate, county, town, diſtrict, precinct or pariſh rates and taxes, when in the execution of their office, ſhall be hindered, or impeded in collecting the rates and taxes committed to them, it ſhall be lawful for ſuch Collectors to require

If Collectors are hindered in the execution of their office, they may require aid.

some meet person or persons to aid and assist them therein; and that all persons so required who shall refuse their aid and assistance, shall severally pay a fine to the poor of the town, district, or plantation where the offence may arise, not exceeding *Forty Shillings*, at the discretion of the Justice before whom the conviction may be had, by complaint or information, in writing, according to the circumstances of the offence; *Provided* that it appears to the Justice, that the aid so demanded as aforesaid, was necessary; and on default of payment of the fine imposed, the Justice may order the offender to be committed to the common gaol of the county for the space of forty-eight hours.

Penalty for refusing aid.

Proviso.

When owners or tenants of improved lands do not reside where such land lies; directions in this case.

SECT. 10. *And be it further enacted*, That where the owner or tenant of any improved lands, liable to pay taxes, shall not reside, or be an inhabitant of the town, district, plantation, precinct, or parish in which such lands lie, and no stock, corn or hay, can be found upon the said lands, whereof the Constable or Collector may make distress to satisfy such sum or sums, as from time to time such lands shall be assessed, either to the state, county, town, district, plantation, precinct, or parish, in such case any Justice of the Peace in the county where the owner or tenant of any such lands lives, upon application to him made, in writing, by the Constable or Collector, to whom the list, wherein such lands shall be assessed, shall be committed, and upon sight of the same, or an authenticated copy thereof, may and hereby is empowered and required to grant a warrant unto the Constable of the town or place where such occupant dwells or resides, to distrain such owner or occupant, by his goods or chattels, the full sum at which the said lands are set in such list or assessment, with the charges occasioned by making such distress; and to satisfy the same by sale thereof, returning the overplus, if any there be, to the owner; and in case no goods or chattels can be found, whereon to distrain, to commit the party to the common gaol of the county, there to remain until he pay and satisfy the sum or sums so assessed, with the charges.

When persons are committed to prison, the officer shall give a copy of the warrant to the keeper.

SECT. 11. *And be it further enacted*, That when any officer appointed for collecting any rates or assessments, by virtue of any warrant, shall, for want of goods or chattels, whereof to make distress, take the body of any person and commit him to prison, he shall give an attested copy of his warrant unto the keeper of the prison, and thereupon certify under his hand the sum such person is to pay as his proportion to the assessment, with the cost of taking and committing; and that for want of goods or chattels, whereon to make distress, he has taken his body; and such attested copy, with the certificate thereon under the hand of the officer, shall be a sufficient warrant to require the prison-keeper to receive and keep such person in custody until he shall pay his rate or assessment as aforesaid, and charges

charges of imprisonment, with *Two Shillings* for the copy of the warrant.

Provided nevertheless, Any person committed to gaol for his taxes, shall have the liberty of the gaol-yard, upon his procuring sufficient bonds as is by law directed for other debtors. Proviso.

SECT. 12. *And be it further enacted*, That all plantations, which shall from time to time be ordered by the General Court to pay any part or proportion of the public taxes, shall be and they hereby are fully vested with all the powers that towns in this Commonwealth by law are vested with, so far as relates to the choice of Collectors of taxes; and any person who shall be chosen to the office of a Collector of taxes in any of the aforesaid plantations, and shall refuse to accept of the office, to which he shall have been elected, or neglect to take the oath by law required to be taken by Collectors of taxes in towns, shall be liable to the same penalties, to be recovered by the Clerk of the plantation for the use thereof, in the same way and manner as by this Act are provided in the case of Collectors refusing to accept such office when chosen by parishes or precincts. Plantations that pay taxes, vested with the powers of towns, relating to the choice of Collectors.

SECT. 13. *And be it further enacted*, That if any of the plantations aforesaid shall neglect to choose Collectors as aforesaid, or if the Collectors chosen by any such plantation, and accepting such trust, shall be remiss or neglect their duty, in every such case, such plantation shall be proceeded with in the same manner as by this Act is provided in the case of deficient towns, and such deficient Collectors shall be and hereby are made liable to the same penalties, to be recovered by the same process as by this Act is provided in the case of deficient Collectors chosen by towns. To be proceeded with, in case of neglect, in the same manner as deficient towns.

SECT. 14. *And be it further enacted*, That in all cases where any person or persons who may be taxed for any real estate in their possession, may not be owners or proprietors of such estate, it shall be the duty of every Collector on whose rate-bill the name or names of any such person or persons shall be borne, to demand, as soon as may be after such bill shall be regularly committed to him, the full amount of the taxes that may be therein assessed upon such person or persons respectively; and that all cattle, sheep, horses, swine or other stock, and also all the produce of any such estate which then, or within nine months from the time such assessment shall be committed as aforesaid, shall or may be found on the premises belonging to the owner or proprietor of such estate, or to any tenant thereof taxed as aforesaid, shall be liable to be taken and disposed of by public auction, in manner as is provided by law, in case of distress taken for taxes in discharge in part or in whole of any sum or sums assessed, upon any such person or persons as aforesaid. When persons are taxed for real estate in their possession and are not owners, duty of Collectors in such case.

SECT. 15. *And be it further enacted*, That if any stock or produce which may be taken and disposed of as aforesaid, shall

be

be the property of the proprietor or owner of the land aſſeſſed as aforeſaid, in every ſuch caſe ſuch perſon or perſons aſſeſſed as aforeſaid ſhall be held to make full ſatisfaction to the owner or proprietor of ſuch ſtock or produce, and the Collector making diſtreſs ſhall not be chargeable with the ſame.

Proviſo, when perſons are aſſeſſed for eſtates in their poſſeſſion and are not owners.

Provided always, That if the perſon or perſons aſſeſſed as aforeſaid ſhall remain on ſuch eſtate, or in the town, diſtrict, pariſh, precinct or plantation, where the ſame may lie, for the ſpace of nine months next after the rate-bill ſhall be committed to any ſuch Collector as aforeſaid, the ſaid Collector ſhall have no other remedy than againſt the perſon or property of the perſon or perſons aſſeſſed as aforeſaid, unleſs it ſhall appear, that there was no ſufficient diſtreſs to be found upon the premiſes within that time, and that ſuch Collector was unable to collect the ſum or ſums due from the perſon or perſons aſſeſſed as aforeſaid within the like term; in which caſe it ſhall and may be lawful for ſuch Collector or Collectors to proceed to ſell ſo much of ſaid real eſtate as may be neceſſary to diſcharge the ſaid aſſeſſment and charges, in the ſame manner as is hereinafter provided for the ſale of lands belonging to non-reſident proprietors for the non-payment of taxes. *Provided* ſuch ſale ſhall be made within the term of one year from the time ſuch tax ſhall be committed to ſuch Collector or Collectors, and not afterwards.

Precincts and pariſhes empowered to chooſe Collectors annually.

SECT. 16. *And be it further enacted*, That it ſhall be in the power of any precinct or pariſh within this Commonwealth, ſome time in the month of *March*, annually, at the time they chooſe other precinct or pariſh officers, to chooſe one or more perſon or perſons to ſerve as Collector or Collectors of all ſuch rates or aſſeſſments as ſhall be granted or agreed upon by ſuch precinct or pariſh, who ſhall be duly ſworn to the faithful diſcharge of the truſt repoſed in him or them; and any perſon that ſhall be choſen into the office of a Collector as aforeſaid, and ſhall refuſe to accept thereof, or deny or neglect to take the oath by law required, ſhall forfeit and pay unto the Treaſurer of ſuch precinct or pariſh, for the uſe of ſuch precinct or pariſh, the ſum of *Five Pounds*, to be ſued for and recovered in the ſame manner fines are recovered from perſons refuſing to ſerve in the office of a Conſtable in any town or diſtrict;

Penalty for refuſing to ſerve.

Proviſo.

Provided no perſon in commiſſion for any office, civil or military, church officer, or member of the Council, Senate or Houſe of Repreſentatives, Selectmen, Town-Clerk, Town-Treaſurer or Aſſeſſors, for the time being, nor any other perſon, that has ſerved as Conſtable or Collector for himſelf or his own turn, within the ſpace of ſeven years, ſhall be obliged to ſerve in the office of Collector.

SECT. 17. *Be it further enacted*, That the oath to be adminiſtered to the Conſtable in any town or diſtrict, ſhall be in the form following:

WHEREAS

WHEREAS you, *A. B.* are choſen Conſtable within the town of *C.* for one year now following and until other be choſen and ſworn in your place, do ſwear, that you will carefully intend the preſervation of the peace, the diſcovery and preventing all attempts againſt the ſame; that you will duly execute all warrants which ſhall be ſent unto you from lawful authority, and faithfully attend all ſuch directions in the laws and orders of Court, as are or ſhall be committed to your care; that you will faithfully and with what ſpeed you can, collect and levy all ſuch fines, diſtreſſes, rates, aſſeſſments, and ſums of money, for which you ſhall have ſufficient warrants according to law; rendering an account thereof, and paying the ſame according to the direction in your warrant; and with like faithfulneſs, ſpeed and diligence, you will ſerve all writs, executions and diſtreſſes in private cauſes betwixt party and party, and make return thereof duly in the ſame Court where they are returnable; and in all theſe things you ſhall deal faithfully whilſt you ſhall be in office, without any ſiniſter reſpects of favour or diſpleaſure. *So help you GOD.*

Form of the oath to be adminiſtered to Conſtables.

And the oath to ſuch as may be Collectors only, ſhall be in the following form:

YOU, *A. B.* being appointed a Collector of Taxes within the of for one year next following, do ſwear, that you will levy and collect, with what ſpeed you can, all ſuch rates and aſſeſſments, for which you ſhall have ſufficient warrants according to law: rendering an account thereof, and paying the ſame, according to the direction in your warrant. *So help you GOD.*

Form of the oath to be adminiſtered to Collectors.

SECT. 18. *And be it further enacted*, That in caſe of diſtreſs or commitment for the non-payment of taxes, the officer concerned therein ſhall be entitled to the ſame fees which Sheriffs by law are or may be entitled to for levying executions, ſaving that the travel in caſe of diſtreſs ſhall be computed only from the dwelling-houſe of the officer making ſuch diſtreſs to the place where the diſtreſs may be made.

Fees in caſes of commitment for non-payment of taxes.

[This Act paſſed *March* 16, 1786.]

An ACT for ſetting off *Peter Noyes*, Eſq. and others, Inhabitants of the firſt Pariſh in *Falmouth*, in the County of *Cumberland*, and annexing them and their Eſtates to the third Pariſh in ſaid *Falmouth*.

[This Act paſſed *March* 20, 1786.]

An

An ACT for reviving and continuing ſundry Laws that are expired and near expiring.

[This Act paſſed *March* 20, 1786.]

An ACT in Addition to an Act, entitled, "An Act in Addition to, and for repealing certain Clauſes of an Act, paſſed the preſent Year, entitled, "An Act for regulating and governing the Militia of the Commonwealth of *Maſſachuſetts*, and for repealing all Laws heretofore made for that Purpoſe.

[This Act paſſed *March* 20, 1786.]

An ACT for apportioning and aſſeſſing a Tax of *Three Hundred Thouſand, Four Hundred and Thirty-Nine Pounds, One Shilling and Three Pence*, viz. *One Hundred and Forty-Five Thouſand, Six Hundred and Fifty-Five Pounds*, for the Purpoſe of complying with the Requiſition of the United States in Congreſs aſſembled, of the twenty-ſeventh Day of *September*, *Anno Domini* One thouſand ſeven hundred and eighty-five; for raiſing *Twenty-Five Thouſand, Seven Hundred and Eighty-Four Pounds, One Shilling and Three Pence*, for the Support of Government; and *Twenty-Nine Thouſand Pounds* for the Payment of Intereſt on the conſolidated Notes of this State; and the Sum of *One Hundred Thouſand Pounds* for the Purpoſe of redeeming the Remainder of the Army Notes, ſo called, which became payable in the Years One thouſand ſeven hundred and eighty-four, One thouſand ſeven hundred and eighty-five, and One thouſand ſeven hundred and eighty-ſix, not already provided for; and alſo the further Sum of *Eleven Thouſand and One Pounds, Eighteen Shillings*, to replace the ſame Sum drawn out of the Treaſury to pay the Members of the Houſe of Repreſentatives for their Attendance the five laſt Seſſions of the General Court.

[This Act paſſed *March* 23, 1786.]

An

An ACT for regulating Towns, setting forth their Power, and for the Choice of Town-Officers, and for repealing all Laws heretofore made for that Purpose.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the bounds of all townships shall be, and remain as heretofore granted, settled and established. And to prevent an interference of jurisdiction, the lines between towns shall be run, and the marks renewed within three years from the last day of *March* instant, and once every five years forever after, by two or more of the Selectmen of each town, or such other persons as they shall, in writing, appoint to run and renew the same; and their proceedings, after every such renewal of boundaries, shall be recorded in the respective town books. The Selectmen of the most ancient town to give notice, in writing, unto the Selectmen of the adjoining town, of the time and place of meeting for such perambulation, ten days beforehand; and the Selectmen who shall neglect their duty in notifying or attending, either personally or by their substitutes, to perambulate the line, at the time and place assigned as aforesaid, shall severally forfeit and pay the sum of *Five Pounds*, two thirds to the use of the town which shall comply with their duty as aforesaid, and the other third part unto any two or more of the Selectmen of the town so complying, who are hereby empowered to inform or sue therefor, in the Court of Common Pleas for the same county, at any time within two years after the forfeiture shall be incurred, and not afterwards.

Lines between towns to be run, and marks renewed once in five years.

SECT. 2. *And be it further enacted by the authority aforesaid,* That the freeholders and other inhabitants of each town in this government, who shall pay to one single tax, besides the poll or polls, a sum equal to two-thirds of a single poll-tax, shall, in the month of *March* or *April* annually, meet and assemble at such time and place in the same town, as they shall be notified to attend by the Constable or Constables of the town, or such others as the Selectmen shall appoint to notify the same; and the said freeholders, and other inhabitants, shall then and there, by a major vote, choose a Clerk (who shall be under oath truly to record all votes passed in such and other town meetings during the year, and until another Clerk shall be chosen and sworn in his stead, and also faithfully to discharge all the other duties of his said office) three, five, seven or nine able and discreet persons of good conversation, inhabiting in the town, to be Selectmen, or Townsmen, and Overseers of the Poor, where other persons shall not be particularly chosen to that office (which any town may do if they shall think it necessary and convenient) three or more Assessors, two or more judicious persons for Fence-Viewers,

Freeholders and other inhabitants of towns shall meet annually for the choice of town officers.

Viewers, Treaſurer, Surveyors of Highways, Surveyors of Lumber, Wardens, Tything-Men, Sealers of Leather, Meaſurers of Wood, Clerks of the Market, Conſtables, and other uſual town-officers; the ſaid officers to be choſen by ballot or ſuch other method as the voters agree upon. And the Town-Clerk, or two of the Selectmen, ſhall forthwith make out a liſt of the names of all thoſe who ſhall be then choſen into office, of whom an oath is by law required, and deliver the ſame to ſome Conſtable or Conſtables of the ſame town, together with a warrant to him or them directed, who is hereby required, within three days after receiving ſuch warrant, to notify and ſummon each of the ſaid perſons to appear before the Town-Clerk within ſeven days from the time of ſuch notice, to take the oath by law preſcribed to the office into which they are ſeverally choſen; and every perſon who ſhall neglect to appear before the Town-Clerk, within the ſaid ſeven days, and take the oath of office unto which he is choſen and ſummoned as aforeſaid, which oath the Town-Clerk is hereby authorized to adminiſter (unleſs ſuch perſon is by law exempted from ſerving in the office) ſhall forfeit and pay to him or them that will inform or proſecute therefor, the ſum of *Thirty Shillings*, except Conſtables and ſuch other officers, for whoſe neglect a different penalty is provided, two thirds for the uſe of the town, and the other third to the uſe of the proſecutor.

Perſons choſen into office to be ſummoned to appear before the Town Clerk to take the oath preſcribed by law.

Forfeiture for neglecting to appear.

Proviſo. *Provided always*, That any perſon who ſhall take the oath of office before a Juſtice of the Peace, and file a certificate thereof with the Town-Clerk within the ſaid ten days, ſhall be exempted from the ſaid fine; and every Conſtable ſhall, at the expiration of the term of ten days from the time of receiving ſuch warrant, make a return into the Clerk's office of the ſame town, of the warrant to him committed as aforeſaid, with his doings thereon, for a neglect of which, he ſhall forfeit and pay the ſum of *Forty Shillings*, to be to the uſe of the town; the Conſtable to be allowed ſuch reaſonable ſum for his ſervices upon this and other town buſineſs as the inhabitants ſhall agree upon.

Perſons exempted from ſerving as Conſtables. SECT. 3. *And be it further enacted*, That no perſon ſhall be obliged to ſerve in any town office two years ſucceſſively; nor ſhall any perſon in commiſſion for any office, civil or military, Church Officer, Member of the Council, Senate or Houſe of Repreſentatives, for the time being, nor any one who has ſerved in the office of a Conſtable or Collector of any town, diſtrict, pariſh or precinct, within ſeven years, be obliged to ſerve in the office of Conſtable; and every perſon choſen to the office of Conſtable, and not exempted as aforeſaid, who ſhall refuſe to take the oath to that office preſcribed, and to ſerve therein, if he be able in perſon to execute the ſame, ſhall forfeit and pay to the uſe of the town, the ſum of *Five Pounds*, and if in *Boſton*, *Salem*, or *Newbury-Port*, *Ten Pounds*, and ſhall, if preſent, forthwith declare his acceptance or refuſal; and in caſe he ſhall not declare

Perſons not exempted, refuſing to ſerve.

Forfeiture.

declare his acceptance, the town ſhall proceed to a new choice, and ſo from time to time until one ſhall accept and be ſworn; and any perſon who ſhall be preſent and declare his refuſal to ſerve in the office of Conſtable, or who ſhall neglect, after being ſummoned as aforeſaid, to take the oath of office, for the ſpace of ſeven days next after ſuch ſummons, and ſhall alſo neglect to pay the fine aforeſaid, ſhall, upon the application of the Town-Treaſurer, be ſummoned before the Court of General Seſſions of the Peace in the county in which ſuch town lieth; and a certificate under the hand of the Clerk, or two of the Selectmen, certifying that ſuch perſon was legally choſen to the office of Conſtable, ſhall be admitted as evidence of the fact; and if the perſon ſummoned ſhall make default, or appearing, ſhall not ſhew ſufficient cauſe to the Court for his refuſal, the Court ſhall order a warrant under the ſeal thereof, directed to any of the Conſtables of the ſame town then in office, to levy the fine by diſtreſs and ſale of the offender's goods and chattels, returning the overplus (if any be) together with the coſts ariſing on ſuch proſecution; and for want of goods and chattels, to commit the delinquent to priſon until the ſame ſhall be paid. And the Town-Clerk ſhall make a record of ſuch perſons as ſhall, from time to time, be ſworn into office before him, or of ſuch as ſhall file certificates of their being ſworn as aforeſaid.

Town-Clerk to record ſuch as are ſworn into office.

Sect. 4. *And be it further enacted*, That when by reaſon of non-acceptance, death or removal of any perſon choſen to office in any town, at the annual meeting for the choice of town officers, or at any other time, or by reaſon of a perſon's becoming *non-compos*, there is a vacancy, or want of ſuch officers, the town, being orderly aſſembled in the manner this Act directs, may proceed to a new choice of officers to ſupply and fill up ſuch vacancy; and the perſon or perſons thus choſen and ſworn before the Town-Clerk, or a Juſtice of the Peace (in caſe an oath of office is by law required) ſhall have the ſame power and authority to diſcharge the duties of the office, as though choſen at the annual meeting for the choice of Town-Officers.

In caſe of vacancy in any office, towns may proceed to a new choice.

Sect. 5. *And be it further enacted by the authority aforeſaid*, That when there ſhall be occaſion of a town-meeting, the Conſtable or Conſtables, or ſuch other perſon as ſhall be appointed for the purpoſe, by warrant from the Selectmen, or the major part of them, ſhall ſummon and notify the inhabitants of ſuch town to aſſemble at ſuch time and place, in the ſame town as the Selectmen ſhall order, the manner of ſummoning the inhabitants to be ſuch as the town ſhall agree upon; and when ten or more of the freeholders of a town ſhall ſignify, in writing, their deſire to have any matter or thing inſerted in a warrant for calling a meeting, the Selectmen are hereby required to inſert the ſame in the next warrant they ſhall iſſue for a meeting, or call a meeting for the expreſs purpoſe of conſidering thereof; and no matter or thing ſhall be acted upon in ſuch

Manner of calling town-meetings.

such a manner as to have any legal operation whatever, unless the subject matter thereof be inserted in the warrant for calling the meeting; and in case the Selectmen shall unreasonably deny to call a meeting upon any public occasion, any ten or more of the freeholders of such town may apply to a Justice of the Peace within and for the same county, who is hereby authorized and empowered to issue his warrant under his hand and seal, directed to the Constable or Constables of the town, if any such there be, otherwise to any of the freeholders applying therefor, directing him or them to notify and warn the inhabitants qualified to vote in town affairs, to assemble at such time and place in the same town as the said Justice shall in his said warrant direct, and for the purpose in the same warrant expressed. And when by reason of death, removal or resignation of Selectmen, a major part of the number originally chosen shall not remain in office within any town; in every such case, a major part of the survivors, or of such as remain in office, shall have the same power to call a town-meeting as a major part of the whole number first chosen.

Town-Meetings regulated.

SECT. 6. *And be it further enacted by the authority aforesaid*, That at every town-meeting, a Moderator shall be first chosen by a majority of votes, who shall be thereby empowered to manage and regulate the business of the meeting; and when a vote, declared by the Moderator, shall, immediately after such declaration, be scrupled or questioned by seven or more of the voters present, the Moderator shall make the vote certain, by polling the voters, or such other way, as the meeting shall desire. And no person shall speak in the meeting before leave first had and obtained from the Moderator, nor when any other person is orderly speaking; and all persons shall be silent at the desire of the Moderator on pain of forfeiting *Five Shillings* for the breach of every such order, to the use of the town: and if any person shall, after notice from the Moderator, persist in his disorderly behaviour, then it shall be lawful for the Moderator to direct such disorderly person to withdraw from the meeting; and such disorderly person, upon his refusal or neglect to withdraw, shall forfeit and pay a fine of *Twenty Shillings*, to the use of the same town; and may also, by direction of the Moderator, be carried out of the meeting by some Constable of said town, and put into the stocks, cage, or some other place of confinement, and there be detained for the space of three hours, unless the town-meeting shall sooner adjourn or dissolve. And all suits and informations for fines incurred by a breach of this Act, not exceeding *Forty Shillings*, may be heard and determined before any Justice of the Peace in the same county, not an inhabitant of the same town, unto whom the penalty or any part thereof is given, who, upon conviction, may enforce the payment thereof by a similar process, as is herein prescribed in the

the Court of General Seſſions of the Peace for perſons who refuſe to ſerve in the office of Conſtable.

Provided always, That town-meetings for the choice of Governor, Lieutenant-Governor, and Senators, ſhall be regulated as the Conſtitution directs, and for the choice of Repreſentatives as is otherwiſe by law preſcribed; any thing in this Act contained to the contrary notwithſtanding. And the Moderator of any town-meeting, choſen as aforeſaid, is hereby authorized, in caſe no Juſtice of the Peace be preſent, to adminiſter to the Clerk, in open town-meeting, the oath by law preſcribed to the ſame office. Proviſo.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That the freeholders, and other inhabitants of each reſpective town, qualified as aforeſaid, at the annual meeting for the choice of town-officers, or at any other town-meeting, regularly warned, may grant and vote ſuch ſum or ſums of money, as they ſhall judge neceſſary for the ſettlement, maintenance and ſupport of the miniſtry, ſchools, the poor, and other neceſſary charges, ariſing within the ſame town; to be aſſeſſed upon the polls and property within the ſame, as by law provided; and they are alſo hereby empowered to make and agree upon ſuch neceſſary rules, orders and by-laws, for the directing, managing and ordering the prudential affairs of ſuch town, as they ſhall judge moſt conducive to the peace, welfare and good order thereof; and to annex penalties for the obſervance of the ſame, not exceeding *Thirty Shillings* for one offence; to enure to ſuch uſes as they ſhall therein direct: *Provided* they be not repugnant to the general laws of the Government; and provided alſo, ſuch orders and by-laws ſhall have the approbation of the Court of General Seſſions of the Peace of the ſame county: And may alſo allow and approve of any town or private way laid out by the Selectmen of the ſame town; or alter or diſcontinue any town or private way, heretofore laid out and improved as ſuch, when it ſhall appear that the ſame is unneceſſary for the inhabitants of ſuch town. *Saving always*, to any perſon aggrieved, or who thinks himſelf injured, liberty of applying for remedy to the Court of General Seſſions of the Peace in the ſame county, who are hereby empowered and directed to inquire into and determine the matter by a jury, thereunto appointed, as well with reſpect to the neceſſity and convenience, by ſuch diſcontinuance, laying out, or alteration, as to the damage, that may happen or accrue, to any particular perſon or perſons thereby; and thereupon to aſſeſs damages for the party injured, to be paid by ſuch town; unleſs it appears, that the perſon on whoſe behalf application has been made, had no juſt cauſe of complaint; in which caſe the complainant ſhall pay all ſuch coſts and charge as may ariſe by ſuch application to the Court of Seſſions. And the verdict of a jury being received and recorded,

Towns empowered to grant and aſſeſs money for neceſſary charges.

To make by-laws, &c.

Proviſo.

Court of Seſſions may approve or diſcontinue any town or private way laid out by Selectmen.

corded, shall be final and conclusive. *Provided*, such application be made to the Court of General Sessions of the Peace within twelve months after such way is approved, altered, or discontinued as aforesaid, and not otherwise.

Inhabitants of every town declared a body politic.

SECT. 8. *And be it further enacted by the authority aforesaid*, That the inhabitants of every town within this Government are hereby declared to be a body politic and corporate; and as such, may commence and prosecute any suit or action in any Court proper to try the same; and may also defend any suit or action commenced against them, and for this purpose, the said inhabitants, qualified and convened in manner aforesaid, may nominate and appoint one or more agents or attornies. The choice of the agent or attorney, certified by the Town-Clerk, shall be deemed and taken sufficient evidence of such appointment. And when any suit shall be commenced against any town (or other body corporate) a copy of the writ or original summons, or such other legal process as may issue against them, shall be left with the Clerk of such town, or with one or more principal inhabitants thereof (or with the Clerk or some principal member of the body corporate) thirty days at least before the day of the sitting of the Court, unto which the same shall be returnable.

Privileges and powers of districts.

SECT. 9. *And be it further enacted by the authority aforesaid*, That all places incorporated by the name of districts, before the first day of *January* one thousand seven hundred and seventy-seven, are hereby declared to be towns, to every intent and purpose whatever; and places incorporated by the name of districts since the same first day of *January* one thousand seven hundred and seventy-seven, or such places as may hereafter be incorporated by the name of district, are and shall be entitled to all the privileges, and vested with all the powers in this Act expressed, as amply to every intent and purpose as they could have been if expressly named herein.

And whereas, in divers laws, provision is made relating to the annual meetings in *March*, which it is necessary should be extended to the meetings holden in the month of *April*, in case the annual meeting of any town should be holden in that month:

Matters and things by law directed to be done at *March* meetings, may be transacted in *April*.

SECT. 10. *Be it therefore enacted by the authority aforesaid*, That all matters and things, which by any law or resolve of this Commonwealth, are directed to be done and transacted at the town-meetings in *March*, may hereafter be done and transacted at a town-meeting in *April*; any thing in such law or resolve to the contrary notwithstanding.

SECT. 11. *And be it further enacted by the authority aforesaid*, That all laws heretofore made for the purposes mentioned in this Act, be and they hereby are repealed and rendered null and void.

[This Act passed *March* 23, 1786.]

An-

An ACT directing the Time and Manner of appointing County-Treasurers.

Addit. Act, Nov. 17, 1792.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That there shall be annually chosen in each county within this Commonwealth, in the month of *March* or *April*, by the written votes of such persons as are by the Constitution qualified to vote for Representatives in the several towns or districts, a discreet suitable person, being a freeholder and resident in the same county, for a County-Treasurer; the votes to be counted and sorted in the town or district meeting by the Moderator thereof and Town-Clerk; the names of the persons voted for, and the number each person had, shall be recorded by the Clerk in the town or district book, and an attested copy of such record shall be transmitted under seal to the next Court of General Sessions of the Peace, to be held within and for the same county, on the first day of the Court's sitting; there to be opened and compared with the like returns from the several towns and districts in such county: and the person having the majority of the said votes, and accepting of the said office, after being sworn to the faithful discharge of the trust before the said Court, or any two Justices thereof, *quorum unus*, and giving bond for the faithful discharge of the trust, with sufficient sureties, in such penal sum as the Court shall direct, to the Clerk of the peace for the same county, for the time being, and his successor in that office, shall continue in the said office for the term of one year, and until some other person shall be chosen and qualified as aforesaid in his room.

County-Treasurer to be annually chosen.

And in case, upon comparing the votes returned as aforesaid, no one person shall have a majority of the whole number of votes returned, or the person chosen shall decline accepting the office, or after accepting, shall die or resign, or remove out of the county within the year; then, and in such case, it shall be lawful for the Justices of the same Court to appoint, by ballot, a suitable person, being a freeholder in the same county, to that office; and the person thus appointed by the Justices of the General Sessions of the Peace, and accepting the office, and being sworn to the faithful discharge of the trust, and giving bond as before directed, shall be Treasurer of said county for the remainder of the year, and until some other person shall be chosen and qualified in manner as aforesaid.

When no one person shall have a majority of the votes returned, Justices of the Court of Sessions may appoint a suitable person.

SECT. 2. *And be it further enacted by the authority aforesaid*, That all monies received by the County-Treasurer, for the use of the county, shall be improved and employed by him for the defraying county charges, as the Court of General Sessions of the Peace shall, from time to time by their order, in writing, direct and appoint, except that the travel and attendance of the Grand

Monies received by the County-Treasurer, how to be improved.

Grand Jury at the Supreme Judicial Court, and the travel of the Petit-Jurors, with the fees for *venires*, and the legal fees to the Clerk for examining and certifying the fame, may be paid by order of the Supreme Judicial Court; and each County Treafurer fhall account with the Court of General Seffions of the Peace, for the fame county of which he is Treafurer, for all his receipts and payments; which Court fhall make him fuch allowance for his executing the duties of his office, as to them fhall feem reafonable.

Empowered to enforce the payment of taxes; and fhall lay an account annually before the General Court.

SECT. 3. *And be it further enacted*, That each County-Treafurer, refpectively, be and hereby is authorized and empowered to draw in and enforce the payment of all county rates and taxes, affeffed agreeable to the directions of law, by the fame rules and methods prefcribed for the Treafurer and Receiver-General of the Commonwealth to gather in the rates and taxes affeffed for the ufe of the Commonwealth, and fhall annually lay before the General Court an account of all monies that fhall have been raifed in the county to which he belongs, by affeffments, on the feveral towns and places therein, or by any other way or manner by him received as County-Treafurer, and how the fame have been difpofed of; and no further affeffment fhall be made on the feveral towns and places in the county to which he belongs, until the faid account has been offered to the General Court and allowed by them.

This Act to take place in *December* next.

SECT. 4. *And be it further enacted by the authority aforefaid*, That this Act fhall be in force from and after the firft day of *December* next, and not fooner.

[This Act paffed *March* 23, 1786.]

An ACT incorporating a Society by the Name of *The Maffachufetts Congregational Charitable Society*.

[This Act paffed *March* 24, 1786.]

An ACT for naturalizing *Robert Morris* and *James Alexander*.

[This Act paffed *June* 5, 1786.]

An ACT in Addition to an Act, entitled, "An Act to prevent Incumbrances about the Doors of the Court-Houfe in *Boffon*."

[This Act paffed *June* 13, 1786.]

An

An ACT for the orderly Solemnization of Marriages.

Addit. Act, June 15, 1795.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every Justice of the Peace, within the county where he resides, and every stated and ordained Minister of the Gospel in the town, district, parish or plantation, where he resides, shall be and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married, belong to, or are residents in the county where such Justice resides, or one or both of them are inhabitants of, or residents in the town, district, parish, or plantation where such Minister resides.

Justices of the Peace and Ministers licensed to marry.

SECT. 2. *And be it further enacted by the authority aforesaid,* That when any settled and ordained Minister of the Gospel is himself to be married, it shall be lawful for any other such Minister within the same county, to marry the said Minister. And also, when any religious society shall be destitute of a settled and ordained Minister of the Gospel, in case there shall not be such a Minister within the town, district or plantation in which such religious society is, it shall be lawful for any such Minister, within the same county, to join any person of such town, district or plantation, in marriage: *Provided* such marriage be solemnized in the town, district or plantation where one of the parties to be married shall reside.

Ministers and others, how to be married in certain cases.

SECT. 3. *And be it further enacted by the authority aforesaid,* That all persons desiring to be joined in marriage shall have such their intentions published at three public religious meetings, on different days, at three days' distance exclusively at least from each other, in the town or district, wherein they respectively dwell, or shall have their intentions of marriage posted up by the Clerk of such town or district, by the space of fourteen days, in some public place, within the same town or district, fairly written, and shall also produce to the Justice or Minister, who shall be desired to marry them, a certificate of such publishment, under the hand of the Clerk of such town or district respectively; and also, that the intention of marriage hath been entered with him fourteen days, prior to the date of such certificate; and where a male, under twenty-one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person, whose immediate care and government such party is under, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them live in a town, district or place where there shall be no Clerk, then publishment shall be made in the town or district next adjoining, in manner aforesaid, and a certificate from the Clerk of the same town or district, of such publishment, and of the entry of their intentions of marriage as afore-

Intentions of marriage, how to be published, and Town-Clerk's duty.

said, shall be produced as aforesaid, previous to their marriage.

Inhabitants of the counties of *Cumberland* and *Lincoln*, respecting their marrying.

Provided, That in regard to any plantation in the counties of *Cumberland* and *Lincoln*, where the parties, not under the respective ages aforesaid, shall have been inhabitants for the space of twelve months, and shall live twenty miles' distant from such next adjoining town or district, any Justice or ordained Minister belonging to this Commonwealth, may join them in marriage without such certificate.

Banns forbidden process in that case.

SECT. 4. *And be it further enacted by the authority aforesaid*, That if, at any time, the banns of matrimony betwixt any persons shall be forbidden, and the reasons thereof assigned, in writing, by the person so forbidding the same, left with the town or district Clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into, and determined before two Justices of the same county, *quorum unus*: *Provided* the person forbidding the banns shall, within seven days after filing the reasons as aforesaid, apply unto two Justices as aforesaid, and procure their determination thereon; unless the said Justices shall certify unto the said Clerk, that a further time is necessary for their determination on the reasons filed; in which case the Clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the Justices shall sooner determine; according to whose determination, the Clerk shall govern himself herein; and if the said Justices shall determine, that the reasons assigned by the person forbidding the said banns, were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection; and the said Justices shall make up judgment and issue execution accordingly.

Proviso.

Penalty for destroying publishments.

SECT. 5. *And be it further enacted by the authority aforesaid*, That if any person shall deface or pull down any publishment posted up, in writing, as aforesaid, before the expiration of the said fourteen days, he shall forfeit and pay the sum of *Twenty Shillings*, to the use of the town; and if unable to pay the said fine, may be set in the stocks for the space of one hour. And if any Justice of the Peace or Minister shall, otherwise than is expressly allowed and authorized by this Act, join any persons in marriage, they shall severally forfeit and pay the sum of *Fifty Pounds*, two third parts thereof to and for the use of the county wherein the offence may be committed, and the residue to the prosecutor, to be sued for and recovered in the Court of Common Pleas, within the same county, by the Treasurer thereof, who is hereby enjoined, upon due information thereof, to prosecute and sue for the said penalty, without delay, or by the parent, guardian or other person under whose immediate care and government either of the parties were at the time of such marriage; and every Justice or Minister, against whom such

Penalty for marrying contrary to this Act.

such recovery shall be had, is hereby forbidden from joining persons in marriage forever after. And in case a person forbid as aforesaid, or any other person whatever, not authorized and empowered to solemnize marriages by this Act, shall join any persons in marriage, and be convicted thereof in the Supreme Judicial Court, upon presentment or indictment, he shall stand one hour in the pillory, and be subjected to pay a fine, at the discretion of the Court, to the use of the Commonwealth, not exceeding *One Hundred Pounds*, nor less than *Eighty Pounds*.

Record to be kept of marriages.

SECT. 6. *And be it further enacted*, That every Justice and Minister shall make and keep a particular record of all marriages solemnized before them respectively; and in the month of *April*, yearly, and every year, shall make a return to the Clerk of the town, district or plantation in which he lives, certifying the names (both christian names and surnames) of all the persons who have been by them respectively joined together in marriage within the year then last past, if any such have been by them so joined together. And if it shall so happen, that any one or more of the said Justices or Ministers shall not have joined together in marriage any persons during the course of the year then last past, it shall be the duty of such Justice or Minister also to certify to the said Town-Clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year: And if any Justice or Minister shall neglect to make such return, within the month of *April*, annually, the Clerk of the town, district or plantation, where such delinquent Justice or Minister lives, shall, without delay, certify such neglect to the Clerk of the Court of General Sessions of the Peace of the same county, who shall lay the same before the said Court at their next session; and the person so neglecting shall be cited to appear before the said Court, to answer for such neglect; and if no sufficient reason shall be assigned therefor, he shall be considered and adjudged disqualified for joining persons in marriage for a term of time, not exceeding ten years, at the discretion of the Justices of the said Court. And every town and district Clerk shall duly and seasonably record all marriages, so certified to him, as aforesaid, and shall also return a list or copy thereof to the Clerk of the Court of General Sessions of the Peace of the same county, some time in the month of *May*, yearly and every year, to be there recorded, upon penalty of forfeiting *Twenty Shillings* for each neglect: And it shall be the duty of each Clerk of the Sessions to prosecute for every such neglect, in the county to which he belongs. And every Clerk of the Sessions shall record all such returns of marriages at large in a book to be kept for that purpose, and no other, under the same penalty for each neglect.

Return of marriages, to be made annually.

Penalty for neglecting to make such return.

Town and district Clerks to record all marriages.

SECT. 7. *And be it further enacted*, That no person by this Act authorized to marry, shall join in marriage any white per-

Penalty for joining in marriage any white person with any Negro, Indian, or Mulatto.

son with any Negro, Indian or Mulatto, on penalty of the sum of *Fifty Pounds*, two third parts thereof to the use of the county wherein such offence shall be committed, and the residue to the prosecutor, to be recovered by the Treasurer of the same county, in manner as aforesaid; and all such marriages shall be absolutely null and void.

Marriages solemnized among Quakers declared valid.

SECT. 8. *And be it further enacted by the authority aforesaid*, That any marriages which have been or hereafter may be had and solemnized, among the people called Quakers, or Friends, in the manner and form used and practised in their societies, shall be good and valid in law, any thing in this Act to the contrary notwithstanding: And the Clerk, or keeper of the records of the meeting wherein such marriage shall be had and solemnized, shall once a year make a certificate, under his hand, of all marriages had and solemnized in the society, or meeting, to which he belongs, and shall deliver the same to the Clerk of the Court of General Sessions of the Peace of the county wherein the marriages have been had and solemnized, under the penalty of *Twenty Shillings* for each neglect. All fines, not particularly appropriated, shall be to the use of the prosecutor. And all former laws relating to the solemnization of marriages, are hereby repealed.

Certificate of all such marriages to be made annually.

Fines, how appropriated.

This Act to be in force from and after the last day of *December*, one thousand seven hundred and eighty-six, and not sooner.

[This Act passed *June* 22, 1786.]

An ACT to prevent the Destruction of the Fish called Shad and Alewives, in their Passage up the Rivers and Streams in the Town of *Rehoboth*, in the County of *Bristol*.

[This Act passed *June* 27, 1786.]

An ACT authorizing Executors and Administrators to make Sale of Real Estate mortgaged to their Testators or Intestates, and such as they shall take in Execution, in certain Cases.

[This Act passed *June* 27, 1786. Repealed *Feb.* 11, 1789.]

An ACT to enable the Inhabitants of the first Parish in the Town of *Falmouth*, in the County of *Cumberland*, to sell the Ministerial Lands there, towards raising a Fund for the Support of the Ministry, and to tax the Pews in the Meeting-House, in said Parish, until such Fund be raised.

[This Act passed *June* 27, 1786.]

An

An ACT to prevent the Deſtruction of Salmon, Shad, and Alewives, and other Fiſh in *Agawam* or *Weſtfield-River*.

[This Act paſſed *June* 27, 1786.]

An ACT for appointing and empowering Agents on the Part of this Commonwealth to aſſiſt in running and aſcertaining the Line of Juriſdiction between this Commonwealth and the State of *New-York*, on the eaſterly Part of the ſaid State of *New-York*.

[This Act paſſed *June* 27, 1786.]

An ACT for incorporating the eaſterly Part of *Pelham*, and the ſouthweſt Part of *New-Salem*, in the County of *Hampſhire*, and the Inhabitants thereon, into a ſeparate Pariſh, by the Name of *The Second Pariſh in Pelham*.

[This Act paſſed *June* 28, 1786.]

An ACT regulating Pariſhes and Precincts, and the Officers thereof.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the bounds and limits of precincts and pariſhes, as they have been formerly ſettled, be and hereby are confirmed and eſtabliſhed, until they ſhall be otherwiſe ordered by the General Court. And the inhabitants of each reſpective pariſh and precinct, who ſhall pay in one tax, excluſive of the poll or polls, a ſum equal to two thirds of a ſingle poll tax, ſhall, in the month of *March* or *April*, annually, meet and aſſemble together at ſuch time and place, in the ſame pariſh or precinct, as they ſhall be notified to attend by the Collector thereof, or ſuch other perſon as the Aſſeſſors thereof ſhall appoint to notify the ſame: and the ſaid inhabitants ſhall then and there, by a major vote, by ballot, or ſuch other method as they may determine convenient, chooſe a Clerk, who ſhall be under oath truly to record all votes paſſed in the ſame, or any other regular meeting of the Corporation, during the time he ſhall remain in office; two or more able and judicious perſons for Aſſeſſors, a Treaſurer, Collector and other uſual pariſh or precinct officers. And no perſon in commiſſion for any office, civil or military, Church Officer, member of the Council, Senate, or Houſe of Repreſentatives, for the time being, nor any one who has ſerved in the office of Conſtable or Collector of any town, diſtrict, pariſh or precinct within the term of ſeven years, ſhall be obliged to ſerve in the office of Collector. And every perſon choſen to the office of Collector, and not exempted as aforeſaid, if he be able in perſon to execute the ſame, and of the ſame denomination of

Bounds and limits of precincts and pariſhes eſtabliſhed.

Inhabitants to meet annually for the choice of officers.

Certain perſons exempted from ſerving in the office of Collector.

Perſons not exempted, refuſing to ſerve.

of Christians as those of the major part of the parish or precinct who shall choose him, who shall refuse to take the oath to that office prescribed, and to serve therein, shall forfeit and pay to the use of the same precinct or parish, the sum of *Three Pounds*. And the person chosen Collector shall, if present, forthwith declare his acceptance or refusal, and in case of non-acceptance the parish or precinct shall proceed to a new choice, and so from time to time until one shall accept and be sworn; and any person so chosen, who shall be present, and shall not declare his acceptance of the office of Collector, or who shall neglect, after being summoned by a Constable or any other person whom the Clerk or Assessors may appoint for that purpose before the Clerk, to take the oaths of office, for the space of seven days next after being notified or summoned, as aforesaid (which oath, as well as the oath of all other parish or precinct officers, the Clerk for the time being is hereby authorized and empowered to administer) and shall neglect to pay the fine aforesaid, may be compelled to pay the same by the same mode of process, in the Court of General Sessions of the Peace, that fines may by law be recovered of persons refusing to serve in the office of Constable.

Penalty.

Fines, how recovered.

SECT. 2. *And be it further enacted by the authority aforesaid*, That Assessors of precincts or parishes shall be empowered to manage their prudentials, unless a committee shall specially be appointed for that purpose, which any precinct or parish is empowered to choose if they think proper; and the said Committee, where any such shall be chosen, and the Assessors where no such Committee shall be appointed, shall have like power and authority in all respects for calling parish or precinct-meetings as Selectmen by law have for calling town-meetings; and in case of a vacancy in any parish or precinct office chosen in *March* or *April*, the same vacancy may be filled at a parish or precinct-meeting regularly notified, at any other season of the year. And the Moderator of a parish or precinct-meeting shall have the like power and authority in governing the meeting as the like officer by law has in a town-meeting; and persons misbehaving in parish or precinct-meetings shall be subjected to similar punishments, to the use of the parish or precinct, as persons misbehaving in town-meetings; and the penalties to be recovered in the same manner. And the Moderator, in case no Justice of the Peace is present, may also administer, in open meeting, the oath of office to the Clerk thereof. And when ten or more of the qualified voters of any precinct or parish shall signify, in writing, their desire to have any matter or thing inserted in a warrant for calling a meeting, it shall be the duty of the Assessors to insert the same in the next warrant they shall issue for that purpose; and no matter or thing shall be acted upon in such a manner as to have any legal operation whatever unless the subject matter thereof shall be inserted in the warrant for calling the meeting. And in case the Assessors shall unreasonably refuse to call a meeting, or a parish or precinct

Assessors empowered to manage prudentials, unless a committee shall be appointed.

Parish and precinct meetings regulated.

shall

ſhall have no Aſſeſſors within it to call one, or not a major part of the Aſſeſſors or Committee which any pariſh may agree upon to be choſen, any Juſtice of the Peace for the ſame county, upon the application of ten or more of the voters in the pariſh or precinct, may call a meeting, in the ſame manner as a Juſtice of the Peace is by law authorized to call a town-meeting.

Juſtices of the Peace may call a meeting in certain caſes.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the qualified voters aforeſaid of any pariſh or precinct, at the annual meeting in *March* or *April*, or at any other pariſh or precinct-meeting regularly notified, at leaſt ſeven days before the holding thereof, may grant and vote ſuch ſum or ſums of money as they ſhall judge neceſſary for the ſettlement, maintenance, and ſupport of miniſters or public teachers of religion; for the building or repairing of houſes of public worſhip, and all other neceſſary pariſh or precinct charges, to be aſſeſſed on the polls and property within the ſame as by law provided. And the inhabitants of each reſpective pariſh and precinct are hereby declared to be a body corporate, and as ſuch may commence and proſecute any action or ſuit to final judgment and execution, in any Court proper to hear and determine the ſame, and may alſo defend any ſuit or action that may be brought againſt them; for which purpoſes they may conſtitute one or more agents or attornies, in the ſame manner as towns may conſtitute and appoint agents; and the evidence of their appointment may be aſcertained in the ſame manner.

Qualified voters may grant money for the ſupport of miniſters, &c.

Inhabitants of pariſhes and precincts, declared to be a body corporate.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That where any town or diſtrict conſiſting of but one pariſh only, has been or hereafter ſhall be divided or made into two or more precincts or pariſhes, any engagements or contracts entered into by ſuch town or diſtrict, before ſuch diviſion, of a precinct or parochial nature ſolely, ſhall not by ſuch diviſion be conſidered as releaſed, cancelled, or extinguiſhed; but the ſame ſhall remain in full force, and be obligatory on the inhabitants reſiding, and the eſtates lying within the limits of the firſt pariſh or precinct of the ſame town or diſtrict, who ſhall be deemed and taken as ſucceſſors to the town or diſtrict, ſo far as relates to precinct or parochial agreements and contracts, to every intent and purpoſe whatever. *Provided always*, That all debts of a precinct or parochial nature, that are or ſhall be in fact due and owing from any town or diſtrict, before a diviſion thereof into precincts or pariſhes, for ſervices or other matters actually done and performed, for the general benefit of the perſons who ſhall after be included in each of the precincts or pariſhes, ſhall in no reſpect be altered or devolved upon the firſt pariſh or precinct, as the ſucceſſors of the ſaid town or diſtrict, in its precinct or parochial capacity, any thing herein contained to the contrary notwithſtanding.

Engagements or contracts, of a parochial nature, entered into before diviſion of towns into pariſhes or diſtricts, ſhall remain in full force after ſuch diviſion.

Proviſo.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That in all ſuch towns or diſtricts where one or more pariſhes or precincts ſhall be regularly ſet off from ſuch towns or diſtricts, the remaining part of ſuch town or diſtrict is hereby deemed,

Remaining part of ſuch towns ſhall be conſidered as the firſt or principal pariſh.

deemed, declared and conſtituted an entire, perfect and diſtinct pariſh or precinct, and ſhall be conſidered as the principal or firſt pariſh or precinct.

[This Act paſſed *June* 28, 1786.]

An ACT for regulating the Salmon, Shad and Alewive Fiſhery in *Saco-River*, and the Branches thereof, within this Commonwealth.

[This Act paſſed *June* 28, 1786.]

An ACT to prevent Damage being done to the Harbour of *Cape-Cod*, by Cattle, Sheep and Horſe-Kind, feeding on *Province-Town* Lands, and for the Preſervation of the ſame.

[This Act paſſed *June* 28, 1786.]

An ACT for the Limitation of Real Actions.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That no perſon ſhall hereafter ſue or maintain any *writ of right*, or make any preſcription, title or claim to any lands, tenements or hereditaments, or to any rents, annuities or portions iſſuing therefrom, upon the poſſeſſion or ſeizen of his or their anceſtor, or predeceſſor, beyond the term of threeſcore years next before the teſte of the ſame writ.

Time limited for bringing actions by *writ of right*.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That no perſon ſhall ſue, have or maintain any *writ of entry upon diſſeizen* done to any of his anceſtors or predeceſſors; or any action poſſeſſory upon the poſſeſſion of any of his anceſtors or predeceſſors, for any lands, tenements or hereditaments, unleſs the anceſtor or predeceſſor under whom the demandant ſhall claim, ſhould have been ſeized or poſſeſſed of the lands, tenements or hereditaments demanded, within fifty years next before the teſte of the ſame writ, or bringing ſuch action.

Actions by *writ of entry upon diſſeizen*, limited.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That no perſon or body corporate or politic ſhall ſue for, have or maintain any action for any lands, tenements or hereditaments, upon his or their own ſeizen or poſſeſſion therein, above thirty years next before the teſte of the ſame writ.

Limitation of actions of ſeizen or poſſeſſion.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all writs of *formedon in deſcender*, *formedon in remainder*, *formedon in reverter* of any lands, tenements or hereditaments whatſoever, hereafter to be ſued or brought, ſhall be commenced within twenty years next after the title or cauſe of action firſt deſcended, and at no time after the ſaid twenty years. And no perſon, unleſs by judgment of law, ſhall at any time hereafter

Limitation by writs of *formedon in deſcender*, &c.

hereafter make any entry into any lands, tenements or hereditaments, but within twenty years next after his right or title firſt deſcended or accrued to the ſame; and in default thereof ſuch perſon ſo not entering, and his heirs, ſhall be utterly excluded and diſabled from making ſuch entry thereunto. *Provided always*, That when any perſon that is or ſhall be entitled to any of the writs of *formedon* aforeſaid; or to make an entry into lands, tenements or hereditaments, ſhall, at the time the ſaid right or title firſt deſcended, accrued or fell, be within the age of twenty-one years, feme-covert, non-compos, impriſoned, or beyond ſeas, or without the limits of the United States, that then ſuch perſon ſhall and may bring ſuch ſuit or make ſuch entry at any time within ten years after the expiration of the ſaid twenty years aforeſaid, and not afterwards. Proviſo.

[This Act paſſed *July* 4, 1786.]

An ACT for erecting that Part of the Town of *Falmouth*, in the County of *Cumberland*, commonly called the *Neck*, into a Town by the Name of *Portland*.

[This Act paſſed *July* 4, 1786.]

An ACT againſt Counterfeiting or uttering counterfeit Coin.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That if any perſon ſhall forge or counterfeit any ſilver or gold money or coin, the currency of which is or ſhall be eſtabliſhed and regulated by law, or ſhall forge or counterfeit any ſilver or gold money or coin that is or ſhall be current in this Commonwealth, he ſhall be fined at the diſcretion of the Court; be ſet in the pillory for the ſpace of one hour, and then have one of his ears cut off; and from thence be drawn to the gallows, and ſet thereon with a rope about his neck for the ſpace of one hour, and ſhall be whipped, not exceeding forty ſtripes, and ſhall then be ſentenced to hard labour for a term of not more than ſeven years. Penalty for counterfeiting or forging any gold or ſilver money.

SECT. 2. *And be it further enacted*, That if any perſon ſhall colour, gild, or caſe over with gold or ſilver, or with any waſh or materials producing a colour reſembling that of gold or ſilver, any coin reſembling any money or coin, the currency of which is or ſhall be eſtabliſhed and regulated by law, or which is or ſhall be current in this Commonwealth, or any pieces of coarſe gold or of coarſe ſilver, or of other metals, with an intent that it ſhall be coined into counterfeit milled money, reſembling the eſtabliſhed or current money or coin in this Commonwealth as aforeſaid; or into pieces reſembling the gold coin Penalty for colouring or gilding any coin reſembling gold or ſilver.

coin eſtabliſhed or current in this Commonwealth as aforeſaid; or that ſhall waſh, gild or colour any lawful or counterfeit ſilver coin, with intent to make ſuch ſilver coin reſemble any gold coin eſtabliſhed or current in this Commonwealth as aforeſaid; or that ſhall waſh, gild or colour, or any ways alter any copper coin, with an intent to make it reſemble either the ſilver or gold coin, the currency of which is or ſhall be eſtabliſhed, and regulated by law, or which is or ſhall be current in this Commonwealth, being convicted thereof, ſuch perſon ſhall be adjudged guilty of forging and counterfeiting the money or coin, eſtabliſhed or current in this Commonwealth, and ſhall ſuffer the ſame puniſhments which are before in this Act aſſigned for ſuch crime.

Penalty for uttering any ſuch falſe money.

SECT. 3. *And be it further enacted*, That if any perſon ſhall utter any ſuch falſe money, or coin, forged and counterfeited to the ſimilitude of the ſilver or gold money, or coin, the currency of which is or ſhall be regulated and eſtabliſhed by law, or that is or ſhall be current in this Commonwealth, knowing the ſame to be falſe, forged and counterfeit, ſuch perſon being thereof convicted, ſhall be puniſhed by fine, not exceeding *One Hundred Pounds*, be ſet in the pillory one hour, be whipped, not exceeding twenty ſtripes, have one ear cut off, be bound to the good behaviour, or confined to hard labour, not exceeding three years.

Penalty for bringing into this Commonwealth, or being poſſeſſed of any falſe or forged money.

SECT. 4. *And be it further enacted*, That if any perſon ſhall bring into this Commonwealth any ſuch falſe, forged and counterfeited money or coin, or be poſſeſſed of any ſuch falſe, forged and counterfeit money or coin, as in this Act is before deſcribed, knowing the ſame to be falſe, forged and counterfeit, with an intent to utter and paſs the ſame, ſuch perſon ſhall be fined a ſum not exceeding *Fifty Pounds*, be whipped not exceeding twenty ſtripes, and be bound to the good behaviour.

Perſons knowingly making or mending any tool whatſoever, for counterfeiting gold or ſilver money,

SECT. 5. *And be it further enacted*, That if any perſon ſhall knowingly make or mend, or begin to make or mend, any engine, preſs, ſtamp, mould, pattern, dye, puncheon or any tool whatſoever, uſed, adapted or deſigned for the coining, forging or counterfeiting gold or ſilver money or coin, the currency of which is or ſhall be regulated and eſtabliſhed by law, or which is or ſhall be current in this Commonwealth, with an intent to uſe, or with an intent or expectation that the ſame ſhould be uſed and employed in forging and counterfeiting ſuch ſilver or gold money or coin, and be thereof convicted, ſuch perſon

Penalty.

ſhall ſuffer the ſame puniſhment, as is herein before provided, for forging and counterfeiting ſilver or gold money or coin, current in this Commonwealth.

Perſons having in poſſeſſion any ſuch tool,

SECT. 6. *And be it further enacted*, That if any perſon ſhall have in his poſſeſſion any ſuch engine, preſs, ſtamp, mould, pattern, dye, puncheon, or any tool or material whatſoever, uſed, adapted or deſigned for the coining, forging or counterfeiting

ſuch

ſuch ſilver or gold money or coin, as is herein before deſcribed, with an intent to uſe and employ the ſame, or that they ſhould be uſed and employed in coining, forging or counterfeiting ſuch ſilver or gold money or coin, as aforeſaid, being thereof convicted, ſuch perſon ſhall ſuffer the ſame puniſhment as is herein before provided, for being knowingly poſſeſſed of ſuch falſe and counterfeit money and coin, with an intent to utter the ſame. Penalty.

SECT. 7. *And be it further enacted*, That if any perſon ſhall forge or counterfeit any copper money, or coin, to the ſimilitude and appearance of the copper money or coin, the currency whereof is or ſhall be eſtabliſhed and regulated by law, he ſhall be fined, not exceeding *Thirty Pounds*, be whipped, not exceeding twenty ſtripes, be bound to the good behaviour, and impriſoned, not exceeding three months. Penalty for counterfeiting copper money.

SECT. 8. *And be it further enacted*, That if any perſon ſhall knowingly bring into this Commonwealth any ſuch falſe, forged and counterfeit copper money or coin, with an intent to utter the ſame, ſuch perſon ſhall, upon conviction thereof, be puniſhed by fine, not exceeding *Fifty Pounds*; by impriſonment, not exceeding ſix months; ſhall be whipped, not exceeding twenty ſtripes, and be bound to the good behaviour. Penalty for bringing into this Commonwealth counterfeit copper money.

SECT. 9. *And be it further enacted*, That whoſoever ſhall inform of any of the foregoing offences, ſo as the offenders may be convicted of the ſame, ſhall receive out of the public treaſury the following rewards, *viz.* for informing of, and proſecuting to conviction, one or more perſons guilty of the ſame forging or counterfeiting any ſilver or gold, or making or mending any engine or tool for forging and counterfeiting ſilver or gold money or coin, as deſcribed in this Act, the ſum of *Twenty-Five Pounds*; and for informing and bringing to conviction one or more perſons guilty of uttering any falſe ſilver or gold coin or money, knowingly, or of bringing the ſame into this Commonwealth, with an intent to utter it, or of having any engine, preſs or tool whatſoever for coining the ſame, as before deſcribed, the ſum of *Fifteen Pounds*; in order to which, two of the Juſtices of the Supreme Judicial Court ſhall give to ſuch perſon as ſhall appear to them to be the informer, a certificate of the conviction and of the name of the proſecutor; and if any diſpute ſhall ariſe between ſeveral perſons, claiming to be proſecutors, the ſaid Juſtices ſhall determine to whom the reward ſhall be paid, and if to more than one, then in what proportion. Rewards for informing of offences.

SECT. 10. *And be it further enacted*, That the Juſtices of the Supreme Judicial Court, before whom all perſons, charged with any of the offences before deſcribed, ſhall be tried, may and ſhall at their diſcretion, abate any part of the pains and penalties aforeſaid, according to the circumſtances of the offence, Juſtices of the Supreme Judicial Court may abate any part of the penalties, at their diſcretion.

SECT.

Persons convicted a second time, how punished.

SECT. 11. *And be it further enacted*, That if any person shall be convicted a second time of any of the offences described in this Act, he may be punished as is mentioned herein for the first conviction of the same offence, and also by confinement to hard labour for life, or any term of years, according to the nature of the offence, at the discretion of the Court.

All other Acts against counterfeiting money repealed.

SECT. 12. *And be it further enacted*, That all other Acts against clipping, diminishing, or counterfeiting any coined money, established by law, or current in this Commonwealth, be and they hereby are repealed.

[This Act passed *July* 4, 1786.]

An ACT for suspending the Operation of an Act, entitled, "An Act for the Regulation of Navigation and Commerce."

[This Act passed *July* 5, 1786.]

An ACT for granting to the United States a Tax upon the Polls and Estates within this Commonwealth, to operate as a supplementary Fund to the Continental Impost, agreeably to the Recommendation of Congress, of the eighteenth of *April*, One thousand seven hundred and eighty-three.

[This Act passed *July* 5, 1786.]

An ACT empowering the Agents, appointed by this Government, to defend the Territory on the West Side of *Hudson's-River*, against the Claims of the State of *New-York*; to settle the Controversy relative thereto, otherwise than by a Federal Court, if they shall judge it expedient.

[This Act passed *July* 5, 1786.]

An ACT for naturalizing *Jonathan Curson* and *William Oliver*.

[This Act passed *July* 7, 1786.]

An ACT to divide the second Parish of the Town of *Springfield* into two Parishes.

[This Act passed *July* 7, 1786.]

An

An ACT for rendering the Deciſion of Civil Cauſes as ſpeedy and as little expenſive as poſſible.

Act March 3, 1792.

WHEREAS it is the duty of the Legiſlature to provide means whereby the deciſion of civil cauſes ſhould be as ſpeedy, and attended with as little expenſe to the citizens of this Commonwealth, as the nature of things will admit :

Preamble.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That when any perſons who may have a diſpute, of what nature ſoever, ſhall agree to have the diſpute determined by referees, mutually choſen by the parties for the purpoſe, it ſhall and may be lawful for the perſon or perſons making the demand in the action, to make out a particular ſtatement thereof, under his or their hands, in writing, and to lodge the ſame with ſome one Juſtice of the Peace of the county in which the perſon or perſons making the demand may dwell; and the ſaid Juſtice of the Peace, upon application of the parties for the purpoſe, ſhall make out an agreement to be annexed to the aforeſaid demand, and to be by them or their lawful agents or attornies, ſubſcribed, and acknowledged, in ſubſtance as follows:

When perſons agree to have a diſpute ſettled by referees, the agreement ſhall be ſubſcribed and acknowledged.

Town of A—, *in the county of* S—, 178

Form of the agreement.

KNOW all men, that *A. B.* of in the county of [addition] and *C. D.* of in the county of [addition] have agreed to ſubmit the demand made by the ſaid *A. B.* againſt the ſaid *C. D.* which is hereunto annexed (and all other demands, as the caſe may be) to the determination of *E. F. G. H.* and *I. K.* the report of whom, or the major part of whom being made as ſoon as may be to any Court of Common Pleas, to be holden in and for the ſaid county of *S*———, judgment thereon to be final: And if either of the parties ſhall neglect to appear before the referees, after proper notice being given them of the time and place appointed by the referees for hearing the parties in this action, the referees ſhall have power to proceed *exparte*.

A. B.
C. D.

S. ſſ. 178 Then the above named *A. B.* and *C. D.* perſonally appeared and acknowledged the above inſtrument by them ſubſcribed to be their free act. Before me,

Form of the acknowledgment.

L. M. Juſtice of the Peace.

SECT. 2. *And be it further enacted,* That there ſhall be paid by the perſon or perſons making the demand in the action, *Two Shillings* unto the Juſtice of the Peace that may make out the agreement, and take the acknowledgment thereof, as aforeſaid, which ſum ſhall be added to the coſts that may ariſe in the action, for the determination of which the agreement and acknowledgment were made as aforeſaid.

Fees for making out the agreement and acknowledgment.

SECT.

Determination of referees to be made to the Court of Common Pleas.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the determination of the referees who may be appointed, agreeably to this Act, shall be made to the next Court of Common Pleas, to be holden in and for the county in which the Justice of the Peace may have lived at the time he issued the agreement as aforesaid; and the Court of Common Pleas to whom the report of the referees may be made as aforesaid, shall have cognizance thereof, in the same way and manner, and the same doings shall be had thereon, as though the same had been made by referees appointed by a rule of the same Court. And the Justices of said Court to which a report shall be made by referees appointed agreeably to this Act, shall be entitled to *Three Shillings* for each report so made; and the Clerk of said Court for recording the same, shall receive *Eight Pence*.

Determination may be made known to the parties prior to its being made to the Court.

SECT. 4. *And be it further enacted by the authority aforesaid*, That where the parties shall agree that the determination of the referees may be made known, prior to its being made to the Court of Common Pleas as aforesaid, it shall and may be lawful for the referees to make known the determination to the parties, without its affecting in any degree the validity thereof; and if the determination shall be so made known to the parties, it shall and may be lawful for the party who may be found indebted agreeably to the determination aforesaid, to discharge him or themselves therefrom, and thereby prevent any further process thereon, by paying the same unto the person or persons to whom it may be so awarded, and having his or their receipt therefor on the back of the determination aforesaid; in which case the determination and papers accompanying the same, shall be returned to the Court of Common Pleas, to be recorded by the Clerk of said Court, in the same manner as though the money had not been paid as above mentioned.

Power of referees appointed in pursuance of this Act.

SECT. 5. *And be it further enacted*, That the referees that may be appointed in pursuance of this Act, shall be vested with all the authority and power that referees have been, or may hereafter be vested with, who have been, or shall be appointed by a rule of Court. And witnesses shall be summoned to appear before them and sworn, in the same manner as is or may be prescribed by law for summoning witnesses before referees appointed by a rule of Court as aforesaid.

[This Act passed *July* 7, 1786.]

An ACT to prevent the Destruction, and to regulate the Catching of the Fish called Salmon, Shad and Alewives in *Kennebec-River*, and several other Rivers and Streams in the Counties of *Cumberland* and *Lincoln*.

[This Act passed *July* 7, 1786.]

An

An ACT to incorporate the Plantation called *Sylveſter*, into a Town by the Name of *Turner*.

[This Act paſſed *July* 7, 1786.]

An ACT in Addition to, and for repealing certain Parts of an Act, paſſed *July* the ſecond, One thouſand ſeven hundred and eighty-five, entitled, "An Act for repealing a Law of this Commonwealth, entitled, "An Act impoſing Duties on licenſed Vellum, Parchment and Paper, and for impoſing other Duties on certain Papers, Commiſſions, Inſtruments and Proceſſes."

[This Act paſſed *July* 7, 1786.]

An ACT granting Leave to *Samuel Barnard*, jun. *Jonathan Hoit* and *John Williams*, to erect a Bridge over *Deerfield-River*, between *Deerfield* and *Greenfield*, in the County of *Hampſhire*.

[This Act paſſed *July* 7, 1786.]

An ACT in Addition to an Act, entitled, "An Act to prevent Damages being done upon the improved Lands adjoining to *Connecticut-River*, by reaſon of Timber being left thereon by the Spring Floods; and for fixing a Time for the Owners to remove it;" made in the Year One thouſand ſeven hundred and eighty-one.

WHEREAS Captain *Aſahel Gunn* hath repreſented to this Court, that he ſuſtains great damage by timber which is brought on to his land in an iſland, in *Connecticut-River*, lying between *Deerfield* and *Montague*, commonly known by the name of *Smead's-Iſland*:

Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That the aforeſaid Act, and every clauſe and thing therein contained, ſhall be extended to the aforeſaid iſland, commonly called *Smead's-Iſland*, the owner or owners thereof obſerving the injunctions contained in ſaid Act, and cauſing the marks on the timber to be recorded in the Book of Records of the town of *Montague*.

[This Act paſſed *July* 7, 1786.]

An

An ACT making further Proviſion for the Support of the ſeveral Light-Houſes in this Commonwealth.

[This Act paſſed *July* 8, 1786.]

An ACT for continuing in Force an Act made in the Year of our LORD One thouſand ſeven hundred and eighty-three, entitled, "An Act laying Duties of Impoſt and Exciſe on certain Goods, Wares and Merchandize, therein deſcribed, and for repealing the ſeveral Laws heretofore made for that Purpoſe," and alſo for continuing in Force all other Acts made in Addition to, or for the Explanation of the ſaid recited Act.

[This Act paſſed *July* 8, 1786. Repealed.]

An ACT to enable the Citizens of this Commonwealth to diſcharge the Debts due from them to the Citizens of certain other States, in the ſame manner as the Citizens of thoſe States are enabled by Law to diſcharge Debts due from them to the Citizens of this Commonwealth.

[This Act paſſed *July* 8, 1786.]

An ACT in Addition to an Act, entitled, "An Act for incorporating the Congregational Church in the Town of *Charlton*, with certain other Inhabitants of the ſaid Town, into a diſtinct Pariſh.

[This Act paſſed *July* 8, 1786.]

An ACT confirming a Treaty made with the *Penobſcot* Tribe of Indians.

[This Act paſſed *October* 11, 1786.]

An ACT for eſtabliſhing a Mint for the Coinage of Gold, Silver and Copper.

[This Act paſſed *October* 17, 1786.]

An

An ACT for incorporating the Plantation called *Sterlington*, in the County of *Lincoln*, into a Town by the Name of *Union*.

[This Act paſſed *October* 20, 1786.]

An ACT for incorporating a Part of *Templeton* and a Part of *Athol*, in the County of *Worceſter*, into a Town by the Name of *Gerry*.

[This Act paſſed *October* 20, 1786.]

An ACT for the altering of a certain Clauſe in an Act, entitled, "An Act regulating the Exportation of Flax-Seed, Pot-Aſh, Pearl-Aſh, Beef, Pork, barreled Fiſh, and dried Fiſh." Nov. 9, 1784.

[This Act paſſed *October* 20, 1786. Repealed *Nov.* 14, 1787.]

An ACT for the Confirming of the ſecond Church in *Boſton*, ſo called, in their Title to certain Lands.

[This Act paſſed *October* 23, 1786.]

An ACT for eſtabliſhing Rules and Articles for governing the Troops ſtationed in Forts and Garriſons, within this Commonwealth; and alſo the Militia, or any Part thereof, when called into actual Service.

BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That the following rules and articles be and they hereby are eſtabliſhed, and declared to be in force, for governing all troops ſtationed in forts and garriſons within this Commonwealth; and alſo the militia, or any part thereof, when called into actual ſervice, *viz.* Rules eſtabliſhed.

ARTICLE *firſt.* All officers and ſoldiers ſhall diligently attend divine ſervice: All officers and ſoldiers who ſhall unneceſſarily abſent themſelves from, or behave indecently or irreverently at any place of divine worſhip, ſhall, if commiſſioned officers, be brought before a general Court-Martial, there to be publickly and ſeverely reprimanded by the Preſident; if non-commiſſioned officers or ſoldiers, every perſon ſo offending ſhall, for the firſt offence, forfeit *One Shilling*, to be deducted out of his next pay; for the ſecond offence he ſhall not only Officers and ſoldiers to attend divine ſervice.

forfeit a like ſum, but be confined twenty-four hours; and for every like offence ſhall ſuffer and pay in like manner; which money, ſo forfeited, ſhall be applied to the uſe of the ſick ſoldiers of the troop or company to which the offender belongs.

Puniſhment for profane oaths.

ART. *ſecond.* Whatſoever non-commiſſioned officer or ſoldier ſhall uſe any profane oath or execration, ſhall incur the penalties expreſſed in the foregoing article: And if a commiſſioned officer be thus guilty of profane curſing or ſwearing, he ſhall forfeit and pay, for each and every ſuch offence, *Four Shillings*.

------ for traitorous or diſreſpectful words.

ART. *third.* Whatſoever officer or ſoldier ſhall preſume to uſe traitorous or diſreſpectful words againſt the authority of the United States, in Congreſs aſſembled, or the Legiſlature of this Commonwealth; if a commiſſioned officer, he ſhall be caſhiered; if a non-commiſſioned officer or ſoldier, he ſhall ſuffer ſuch puniſhment as ſhall be inflicted upon him by the ſentence of a Court-Martial.

------ for contempt or diſreſpect.

ART. *fourth.* Any officer or ſoldier who ſhall behave himſelf with contempt or diſreſpect towards the Commander in Chief, or any general or commanding officer of the troops or militia of this Commonwealth, or ſhall ſpeak words tending to his hurt or diſhonour, ſhall be puniſhed according to the nature of his offence, by the judgment of a Court-Martial.

Mutiny.

ART. *fifth.* Any officer or ſoldier who ſhall begin, excite, cauſe or join in any mutiny or ſedition, in the troop, company or regiment to which he belongs, or in any other troop or company in the ſervice of this Commonwealth, or in any party, poſt, detachment or guard, on any pretence whatſoever, ſhall ſuffer ſuch puniſhment as by a Court-Martial ſhall be inflicted.

Puniſhment for not uſing endeavours to ſuppreſs the ſame.

ART. *ſixth.* Any officer, non-commiſſioned officer or ſoldier, who, being preſent at any mutiny or ſedition, doth not uſe his utmoſt endeavours to ſuppreſs the ſame; or coming to the knowledge of any intended mutiny, doth not without delay give information thereof to his commanding officer, ſhall be puniſhed by ſentence of a Court-Martial, according to the nature of his offence.

------ for ſtriking or offering violence to ſuperior officers.

ART. *ſeventh.* Any officer or ſoldier who ſhall ſtrike his ſuperior officer, or draw or lift up any weapon or offer any violence againſt him, being in the execution of his office, on any pretence whatſoever, or ſhall diſobey any lawful command of his ſuperior officer, ſhall ſuffer ſuch puniſhment as ſhall, according to the nature of his offence, be inflicted upon him by the ſentence of a Court-Martial.

Deſertion.

ART. *eighth.* Any non-commiſſioned officer or ſoldier, who ſhall deſert, or, without leave from his commanding officer, abſent himſelf from the troop or company to which he belongs, or from any detachment of the ſame, ſhall, upon conviction thereof, ſuffer death, or ſuch other puniſhment as ſhall be inflicted by the ſentence of a general Court-Martial.

ART.

ART. *ninth.* Whatever officer or ſoldier ſhall be convicted of having adviſed or perſuaded any other officer or ſoldier to deſert, ſhall ſuffer ſuch puniſhment as ſhall be inflicted by the ſentence of a Court-Martial. Puniſhment for perſuading others to deſert.

ART. *tenth.* No officer or ſoldier ſhall uſe any reproachful or provoking ſpeeches or geſtures to another; nor ſhall any officer or ſoldier preſume to ſend a challenge to any perſon to fight a duel, upon pain, if a commiſſioned officer, of being caſhiered; if a non-commiſſioned officer or ſoldier, of ſuffering corporal puniſhment, at the diſcretion of a Court-Martial. —— for provoking ſpeeches or challenges.

ART. *eleventh.* If any commiſſioned or non-commiſſioned officer commanding a guard, ſhall knowingly and willingly ſuffer any perſon whatſoever to go forth to fight a duel, he ſhall be puniſhed as a challenger; and likewiſe all ſeconds, promoters and carriers of challenges, in order to duels, ſhall be deemed as principals, and be puniſhed accordingly. Officers ſuffering others to fight, how puniſhed.

ART. *twelfth.* All officers of what condition ſoever ſhall have power to part and quell all quarrels, frays and diſorders, though the perſons concerned ſhould belong to another regiment, troop or company; and either to order officers into arreſt, or non-commiſſioned officers or ſoldiers to priſon, until their proper ſuperior officers ſhall be acquainted therewith; and whoſoever ſhall refuſe to obey ſuch officer (though of an inferior rank) or ſhall draw his ſword upon him, ſhall be puniſhed at the diſcretion of a general Court-Martial. All officers empowered to quell quarrels, frays, &c. Puniſhment for refuſing.

ART. *thirteenth.* Whatſoever officer or ſoldier ſhall upbraid another for refuſing a challenge, ſhall be conſidered as a challenger and puniſhed accordingly. Puniſhment for upbraiding another for refuſing challenges.

ART. *fourteenth.* Every officer commanding in quarters, garriſons, or on a march, ſhall keep good order, and to the utmoſt of his power redreſs all ſuch abuſes or diſorders as may be committed by any officer or ſoldier under his command; and if, upon complaint made to him of officers or ſoldiers beating or otherwiſe ill treating any perſon, or of committing any kind of riots to the diſquieting the good citizens of this or either of the United States, he ſhall refuſe or omit to ſee juſtice done on the offender or offenders, and reparation made to the party or parties injured, ſo far as the offender's pay ſhall enable him or them, he ſhall, upon proof thereof, be puniſhed by a general Court-Martial, as if he himſelf had committed the crimes or diſorders complained of. Officers to keep good order and redreſs abuſes. Puniſhment for refuſing.

ART. *fifteenth.* If any officer ſhall think himſelf to be wronged by his Colonel, or the commanding officer of the regiment, and ſhall, upon due application made to him, be refuſed to be redreſſed, he may complain to the General or Commander in Chief of the forces in ſervice, in order to obtain juſtice, who ſhall examine into the complaint and ſee that juſtice be done. Any officer thinking himſelf wronged by his Colonel, may complain to the General.

ART. *ſixteenth.* If any inferior officer or ſoldier ſhall think himſelf wronged by his captain, or other officer commanding

Any inferior officer or soldier wronged by his Captain, may complain to the Colonel.

the troop or company to which he belongs, he may complain thereof to the commanding officer of the regiment, who shall summon a regimental Court-Martial, for the doing justice to the complainant; from which regimental Court-Martial either party, if he thinks himself still aggrieved, may appeal to a general Court-Martial. But if, upon a second hearing, the appeal shall appear to be vexatious and groundless, the person so appealing shall be punished at the discretion of the said general Court-Martial.

Punishment for selling or wasting ammunition.

ART. *seventeenth.* Whatsoever non-commissioned officer or soldier shall be convicted at a Court-Martial of having sold, or designedly, or through neglect, wasted the ammunition delivered out to him to be employed in the service of this Commonwealth, shall, if a non-commissioned officer, be reduced to a private centinel, and if a soldier, shall suffer such punishment as shall be inflicted upon him by a Court-Martial.

—— for being found one mile from the camp without leave.

ART. *eighteenth.* All non-commissioned officers and soldiers who shall be found one mile from the camp without leave, in writing, from their commanding officer, shall suffer such punishment as shall be inflicted on them by the sentence of a Court-Martial.

—— for being out of quarters or camp without leave.

ART. *nineteenth.* No officer or soldier shall be out of his quarters or camp, without leave from his commanding officer, upon penalty of being punished according to the nature of his offence, by the sentence of a Court-Martial.

Soldiers to retire to quarters at the beating of the retreat.

ART. *twentieth.* Every non-commissioned officer and soldier shall retire to his quarters or tent, at the beating of the retreat; in default of which he shall be punished according to the nature of his offence, by the sentence of a Court Martial.

Punishment for not repairing to the place of parade at the time fixed.

ART. *twenty-first.* No officer, non-commissioned officer or soldier shall fail to repair, at the time fixed, to the place of parade or exercise, or other rendezvous, appointed by his commanding officer, if not prevented by sickness or some other evident necessity; nor shall go from the said place of rendezvous or from the guard, without leave from his commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished according to the nature of his offence, by the sentence of a Court-Martial.

—— for being found drunk on guard or other duty.

ART. *twenty-second.* Whatever commissioned officer shall be found drunk on his guard, party or other duty, under arms, shall be cashiered for it; and any non-commissioned officer or soldier, so offending, shall suffer such punishment as shall be inflicted by the sentence of a Court-Martial.

Centinels found sleeping on their posts, how punished.

ART. *twenty-third.* Whatsoever centinel shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer such punishment as shall be inflicted by the sentence of a general Court-Martial.

ART. *twenty-fourth.* Any person belonging to the forces employed in the service of this Commonwealth, who, by discharging

charging of fire-arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison or quarters, shall suffer such punishment as shall be ordered by the sentence of a general Court-Martial.

Punishment for occasioning false alarms.

ART. *twenty-fifth.* Any officer or soldier, who shall, without urgent necessity, or without the leave of his superior officer, quit his platoon or division, shall be punished according to the nature of his offence, by the sentence of a Court-Martial.

—— for quitting platoons, &c.

ART. *twenty-sixth.* No officer or soldier shall do violence or offer any insult or abuse to any person who shall bring provisions or other necessaries to the camp, garrison or quarters, of the forces of this Commonwealth, on pain of suffering such punishment as a Court-Martial shall direct.

—— for offering insult or abuse to persons bringing provisions, &c.

ART. *twenty-seventh.* Whatsoever officer or soldier shall abandon any post committed to his charge, or shall speak words inducing others to do the like in time of an engagment, shall suffer death, or such other punishment as shall be inflicted by the sentence of a general Court-Martial.

—— for abandoning posts in time of an engagement.

ART. *twenty-eighth.* Any person belonging to the forces in the service of this Commonwealth, who shall make known the watch-word to any person not entitled to receive it according to the rules and discipline of war, or shall presume to give the parole or watch-word different from what he received, shall suffer death, or such other punishment as shall be ordered by the sentence of a general Court-Martial.

—— for making known the watch-word.

ART. *twenty-ninth.* Whosoever belonging to the forces in the service of this Commonwealth shall relieve the enemy with money, victuals or ammunition; or shall knowingly harbour and protect an enemy, shall suffer such punishment as by the sentence of a Court-Martial shall be inflicted.

—— for relieving the enemy with money, &c.

ART. *thirtieth.* Whosoever belonging to the *Massachusetts* forces shall be convicted of holding correspondence with, or giving intelligence to the enemy, either directly or indirectly, shall suffer such punishment as by the sentence of a Court-Martial shall be inflicted.

—— for corresponding with the enemy.

ART. *thirty-first.* All public stores taken from the enemy by the forces in the service of this Commonwealth, shall be secured for the use of the Commonwealth.

Public stores taken, to be for use of the Commonwealth.

ART. *thirty-second.* If any officer or soldier shall leave his post or colours to go in search of plunder, he shall, upon conviction thereof before a general Court-Martial, suffer such punishment as by the sentence of the said Court-Martial shall be inflicted.

Punishment for leaving posts in search of plunder.

ART. *thirty-third.* If any commander of any garrison, fortress or post shall be compelled, by the officers or soldiers under his command, to give up to the enemy or to abandon it, the commissioned officers, non-commissioned officers or soldiers who shall be convicted of having so offended, shall suffer death, or such other punishment as shall be inflicted upon them by the sentence of a Court-Martial.

—— for compelling any commanding officer to abandon or give up his post to the enemy.

ART.

Sutlers and retailers subject to orders, &c.

ART. *thirty-fourth.* All sutlers and retailers to the camp, and all persons serving with the *Massachusetts* troops, in the field, shall be subject to orders according to the rules and discipline of war.

When different corps are joined, eldest officer to command.

ART. *thirty-fifth.* If, upon marches, guards or in quarters, different corps shall happen to join or do duty together, the eldest officer by commission there, on duty or in quarters, shall command the whole, and give out orders for what is needful for the service, regard being always had to the several ranks of those corps, and the posts they usually occupy.

If detachments of horse, &c. are quartered with other troops, the eldest officer to command, without respect to corps.

ART. *thirty-sixth.* If any regiments, troops or detachments of horse or foot shall happen to march with, or be encamped or quartered with, any bodies or detachments of other troops, the eldest officer, without respect to corps, shall take upon him the command of the whole, and give the necessary orders to the service.

General Courts Martial—how many members to consist of.

ART. *thirty-seventh.* A general Court-Martial shall not consist of less than thirteen commissioned officers, and the President of such Court-Martial shall not be the Commander in Chief, nor commanding officer of the troops in service or garrison, where the offender shall be tried, nor under the degree of a Field-Officer.

Members, how ranked.

ART. *thirty-eighth.* The members of Courts-Martial shall, when belonging to different corps, take rank as is herein before directed when on other duty.

Members to be sworn.

ART. *thirty-ninth.* Some person shall be appointed by the commanding officer, who shall order the Court-Martial to prosecute in the name of the Commonwealth of *Massachusetts*; and in trials of offenders, such person shall administer to each member the following oath;

Form of the oath.

YOU swear, that you will well and truly try and determine, according to your evidence, the matter now before you, between the Commonwealth of *Massachusetts*, and the prisoner to be tried; that you will duly administer justice according to the rules and articles for governing the troops of the said Commonwealth, without partiality, favour or affection; and if any doubt shall arise which is not explained by the said articles according to your conscience, the best of your understanding, and the custom of war in like cases; that you will not divulge the sentence of the Court until it shall be approved or by the commanding officer; and that you will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the Court-Martial, unless required to give evidence thereof as a witness by a court of justice in a due course of law. *So help you GOD.*

Person who prosecutes, to be sworn.

Which oath being administered to the members of the Court, the President shall administer the following oath to the person prosecuting as aforesaid.

YOU,

YOU, *A. B.* do ſwear, that you will not, upon any account, at any time whatſoever, diſcloſe or diſcover the vote or opinion of any particular member of the Court-Martial, unleſs required to give evidence thereof as a witneſs by a court of juſtice in a due courſe of law. *So help you GOD.* Form of the oath.

ART. *fortieth.* All the members of a Court-Martial are to behave with calmneſs and decency; and in the giving their votes, are to begin with the youngeſt in commiſſion. In giving votes, how to proceed.

ART. *forty-firſt.* All perſons who give evidence before a Court-Martial, ſhall be examined upon oath, which oath ſhall be adminiſtered by the Preſident of the Court-Martial in the form following: Perſons who give evidence, to be ſworn.

YOU ſwear, the evidence you ſhall give in the cauſe now in hearing, ſhall be the truth, the whole truth, and nothing but the truth. *So help you GOD.* Form.

ART. *forty-ſecond.* No ſentence of death ſhall be given againſt any offender by any general Court-Martial, unleſs two thirds of the members ſhall concur therein. Two thirds to concur when ſentence of death is given.

ART. *forty-third.* All perſons called to give evidence in any cauſe before a Court-Martial who ſhall refuſe to give evidence, ſhall be puniſhed for ſuch refuſal at the diſcretion of ſuch Court-Martial. Perſons refuſing to give evidence, how puniſhed.

ART. *forty-fourth.* No field officer ſhall be tried by any perſon under the degree of a Captain, nor ſhall any proceedings or trials be carried on excepting between the hours of eight in the morning and three in the afternoon, except in caſes which require an immediate example. Trials, how carried on.

ART. *forty-fifth.* No ſentence of a Court-Martial ſhall be put in execution, until after report ſhall be made to the commanding officer where the Court-Martial ſhall be held, and his orders be iſſued for carrying ſuch ſentence into execution. Sentences to be reported to the commanding officer.

ART. *forty-ſixth.* The commiſſioned officers in any regiment may, by the appointment of their Colonel or commanding officer, hold regimental Courts-Martial for the inquiring into ſuch diſputes or criminal matters as may come before them, and for inflicting corporal puniſhment for ſmall offences, and ſhall give judgment by the majority of voices; but no ſentence ſhall be executed till the commanding officer (not being a member of the Court-Martial) ſhall have confirmed the ſame. Regimental Courts Martial may be held.

ART. *forty-ſeventh.* No regimental Court-Martial ſhall conſiſt of leſs than five officers, excepting in caſes where that number cannot be conveniently aſſembled, when three may be ſufficient; who ſhall likewiſe determine upon the ſentence by the majority of voices. To conſiſt of not leſs than five officers.

ART. *forty-eighth.* Any officer commanding in a fort, caſtle, barrack or elſewhere, where the corps under his command conſiſts of detachments from different regiments, or of an independent company or companies, may aſſemble Courts-Martial Any commanding officer of a fort, caſtle, &c. may aſſemble courts martial.

tial for the trial of offenders in the same manner as if they were regimental, whose sentence shall not be executed until it shall be confirmed by the said commanding officer.

Penalty for disturbing Courts Martial.

ART. *forty-ninth.* No person whatsoever shall use menacing words, signs or gestures in the presence of a Court-Martial then sitting, or shall cause any disorder or riot so as to disturb their proceedings, on the penalty of being punished at the discretion of the said Court-Martial.

Offenders, how proceeded with previous to trial.

ART. *fiftieth.* To the end that offenders may be brought to justice, whenever any officer or soldier shall commit a crime deserving punishment, he shall, by his commanding officer, if an officer, be put in arrest; if a non-commissioned officer or soldier, be imprisoned until he shall be either tried by a Court-Martial, or shall be lawfully discharged by proper authority.

Not to continue in confinement more than 8 days.

ART. *fifty-first.* No officer or soldier who shall be put in arrest or imprisonment, shall continue in his confinement more than eight days, or until such time as a Court-Martial can be conveniently assembled.

An account of the crime to be given at time of commitment.

ART. *fifty-second.* No officer commanding a guard or provost-martial, shall refuse to receive or keep any prisoner committed to his charge by any officer belonging to the forces of this Commonwealth; which officer shall, at the time of commitment, deliver an account, in writing, signed by himself, of the crime with which the prisoner is charged.

Penalty for releasing prisoners without authority.

ART. *fifty-third.* No officer commanding a guard or provost-martial, shall presume to release any prisoner committed to his charge without proper authority for so doing, nor shall he suffer any prisoner to escape, on the penalty of being punished for it by the sentence of a Court-Martial.

Provost Martials, &c. required to give in an account of the names, crimes, &c. of prisoners.

ART. *fifty-fourth.* Every officer or provost-martial to whose charge prisoners shall be committed, is hereby required, within twenty-four hours after such commitment, or as soon as he shall be released from his guard, to give, in writing, to the Colonel of the regiment to which the prisoner belongs (where the prisoner is confined upon the guard belonging to the said regiment and his offence only relates to the neglect of duty in his own corps) or to the Commander in Chief, their names, their crimes, and the names of the officers who committed them, on the penalty of his being punished for his disobedience or neglect, at the discretion of a Court-Martial.

Officers under arrest leaving confinement, to be cashiered.

ART. *fifty-fifth.* If any officer under arrest, shall leave his confinement before he shall be set at liberty by the officer who confined him or by a superior power, he shall be cashiered for such his offence.

Officers convicted of unbecoming behaviour, to be discharged.

ART. *fifty-sixth.* Whatsoever commissioned officer shall be convicted before a general Court-Martial of behaving in a scandalous, infamous manner, such as is unbecoming the character of an officer and a gentleman, shall be discharged from the service.

ART.

ART. *fifty-seventh.* All officers, conductors, gunners, matroſſes, drivers, or any other perſon whatſoever, receiving pay or hire in the ſervice of the *Maſſachuſetts* artillery, ſhall be governed by the aforeſaid rules and articles; and ſhall be ſubject to be tried by Courts-Martial in like manner with other officers and ſoldiers. *Maſſachuſetts* artillery to be governed by the aforeſaid rules.

ART. *fifty-eighth.* For differences ariſing amongſt themſelves, or in matters relating to their own corps, the Courts-Martial may be compoſed of their own officers; but where a ſufficient number cannot be aſſembled, or in matters wherein other corps are intereſted, the officers of artillery ſhall ſit in Courts-Martial with the officers of other corps. Courts Martial may conſiſt of their own officers in ſome caſes.

ART. *fifty-ninth.* No perſon ſhall be ſentenced to ſuffer death, except in the caſes expreſsly mentioned in the foregoing articles, nor ſhall more than thirty-nine ſtripes be inflicted on any offender for any one offence. No ſentence of death to be paſſed except in caſes expreſſed.

ART. *ſixtieth.* The field officers of each and every regiment ſhall appoint ſome ſuitable perſon belonging to ſuch regiment to receive ſuch fines as may ariſe within the ſame for any breach of any of the foregoing articles; and ſhall direct the ſame to be properly applied to the relief of ſuch ſick, wounded or neceſſitous ſoldiers as belong to ſuch regiment; and ſuch perſon ſhall account with ſuch officer for all fines received and the application thereof. Field officers to appoint perſons to receive fines, &c.

ART. *ſixty-firſt.* All crimes not capital, and all diſorders and neglects which officers and ſoldiers may be guilty of to the prejudice of good order and military diſcipline, though not mentioned in the foregoing articles, are to be taken cognizance of by a general or regimental Court-Martial, according to the nature and degree of the offence, and be puniſhed at their diſcretion. Crimes not mentioned in theſe articles may be taken cognizance of.

ART. *ſixty-ſecond.* Whenever any officer or ſoldier ſhall be accuſed of a capital crime, or of having uſed violence or committed any offence againſt the perſon or property of the good people of this or either of the United States, ſuch as is puniſhable by the known laws of the land, the commanding officer and officers of every regiment, troop or party to which the perſon or perſons ſo accuſed ſhall belong, are hereby required, upon application duly made by or in behalf of the party or parties injured, to uſe his utmoſt endeavours to deliver over ſuch accuſed perſon or perſons to the Civil Magiſtrate, and likewiſe to be aiding and aſſiſting to the officers of juſtice in apprehending and ſecuring the perſon or perſons ſo accuſed, in order to bring them to trial. And if any commanding officer or officers ſhall wilfully neglect, or ſhall refuſe, upon the application aforeſaid, to deliver over ſuch accuſed perſon or perſons to the Civil Magiſtrate, or to be aiding and aſſiſting to the officers of juſtice in apprehending ſuch perſon or perſons, ſuch officer or officers ſo offending ſhall be caſhiered. Any officer or ſoldier accuſed of a crime puniſhable by the known laws of the land— To be delivered over to the Civil Magiſtrate.

[This Act paſſed *October* 24, 1786.]

An

An ACT to prevent Routs, Riots, and tumultuous Assemblies, and the evil Consequences thereof.

Preamble.

WHEREAS the provision already made by law for the preventing routs, riots and tumultuous assemblies and the evil consequences thereof has been found insufficient:

Proclamation to be made among rioters.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That from and after the publication of this Act, if any persons to the number of twelve, or more, being armed with clubs, or other weapons; or if any number of persons, consisting of thirty or more, shall be unlawfully, routously, riotously or tumultuously assembled, any Justice of the Peace, Sheriff or Deputy-Sheriff of the county, or Constable of the town, shall, among the rioters, or as near to them as he can safely come, command silence while proclamation is making, and shall openly make proclamation in these or the like words:

Form.

COMMONWEALTH OF MASSACHUSETTS.

BY virtue of an Act of this Commonwealth, made and passed in the year of our LORD One thousand seven hundred and eighty-six, entitled, "An Act for suppressing routs, riots and tumultuous assemblies and the evil consequences thereof," I am directed to charge and command, and I do accordingly charge and command all persons, being here assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains inflicted by the said Act.

GOD save the COMMONWEALTH.

If the persons assembled do not disperse, officers empowered, &c.

And if such persons, assembled as aforesaid, shall not disperse themselves within one hour after proclamation made, or attempted to be made, as aforesaid, it shall be lawful for every such officer to command sufficient aid, and he shall seize such persons, who shall be had before a Justice of the Peace; and the aforesaid Justice of the Peace, Sheriff or Deputy-Sheriff is hereby further empowered to require the aid of a sufficient number of persons in arms, if any of the persons assembled as aforesaid shall appear armed: And if any such person or persons shall be killed or wounded by reason of his or their resisting the persons endeavouring to disperse or seize them, the said Justice, Sheriff, Deputy-Sheriff, Constable and their assistants, shall be indemnified and held guiltless.

Penalty for refusing to assist the Sheriff or other officer.

SECT. 2. *And be it further enacted*, That if any person being commanded by such Justice, Sheriff, Deputy-Sheriff or Constable, as aforesaid, shall refuse or neglect to afford the assistance required, and shall be convicted thereof upon the oath of either of the said officers so commanding or other legal evidence, he shall forfeit and pay a sum not less than *Forty Shillings*,

Shillings, nor exceeding *Ten Pounds*, to be recovered by indictment or preſentment before the Supreme Judicial Court or any Court of General Seſſions of the Peace, according to the aggravation of the offence; to be paid into the public treaſury for the uſe of the Commonwealth.

Punishment for unlawfully continuing together one hour after proclamation made,

SECT. 3. *And be it further enacted*, That all perſons who, for the ſpace of one hour after proclamation made or attempted to be made, as aforeſaid, ſhall unlawfully, routouſly, riotouſly and tumultuouſly continue together, or ſhall wilfully let or hinder any ſuch officer, who ſhall be known or ſhall openly declare himſelf to be ſuch, from making the ſaid proclamation, ſhall forfeit all their lands, tenements, goods and chattels to this Commonwealth, or ſuch part thereof as ſhall be adjudged by the Juſtices, before whom ſuch offence ſhall be tried, to be applied towards the ſupport of the government of this Commonwealth; and ſhall be whipped thirty-nine ſtripes on the naked back at the public whipping-poſt, and ſuffer impriſonment for a term not exceeding twelve months nor leſs than ſix months; and once every three months during the ſaid impriſonment receive the ſame number of ſtripes on the naked back at the public whipping-poſt as aforeſaid. And if any ſuch perſon or perſons, ſo riotouſly aſſembled, ſhall demoliſh or pull down, or begin to demoliſh or pull down, any dwelling-houſe or other houſe or parcel thereof; any houſe built for public uſes; any barn, mill, malt-houſe, ſtore-houſe, ſhop or ſhip, he or they ſhall ſuffer the ſame pains and penalties as are before provided in this Act.

Proviſo.

Provided always, That where there ſhall appear any circumſtances to mitigate or alleviate any of the offences againſt this Act in the judgment of the Court, before which ſuch offence ſhall be tried, it ſhall and may be lawful for the Juſtices of ſuch Court to abate the whole of the puniſhment of whipping, or ſuch part thereof as they ſhall judge proper; any thing in this Act to the contrary notwithſtanding.

Times when this Act ſhall be read.

SECT. 4. *And be it further enacted*, That this Act ſhall be read at the opening of every Court of General Seſſions of the Peace by the Clerk of the ſaid Court, and at the anniverſary meeting of each town within this Commonwealth by the Town-Clerk thereof in *March* or *April* annually: And no perſon ſhall be proſecuted for any offence contrary to this Act, unleſs proſecution be commenced within twelve months after the offence committed.

[This Act paſſed *October* 28, 1786.]

An ACT providing for the more eaſy Payment of the ſpecie Taxes, aſſeſſed previous to the Year One thouſand ſeven hundred and eighty-four.

[This Act paſſed *November* 8, 1786.]

An

An ACT to bring into the public Treasury the Sum of *One Hundred and Sixty-Three Thousand and Two Hundred Pounds*, in public Securities, by a Sale of a Part of the Eastern Lands; and to establish a Lottery for that Purpose.

Preamble.

WHEREAS by a speedy sale of the eastern lands belonging to this Commonwealth for the public securities, the debt of this Commonwealth may be reduced, the burden of the necessary taxes diminished, and the settlement and improvement of the vacant lands greatly promoted: And whereas the sale of the said lands may be facilitated by establishing a public Lottery therefor: Wherefore,

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,*

Lottery established for the sale of fifty townships.

That a Lottery be and hereby is granted and established for the sale of the following fifty townships of land, in the county of *Lincoln*, each of the contents of six miles' square and lying between the rivers *Penobscot* and *Schuduc*, by Lottery-Tickets of *Sixty Pounds* each, *to wit.* Townships number seven, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-three, twenty-four, twenty-five, twenty-six and twenty-seven, being fifteen townships in the east division, so called; and townships, numbered from fourteen inclusive to forty-three inclusive, being thirty townships in the middle division, so called; and townships, number two, three, four, five and six, in the northern division and southern range, so called.

Boundaries.

The whole tract bounded as follows, *viz.* Beginning at the northwest corner of township number eight, in the aforesaid middle division; from thence running north thirty miles; then east six miles; then north six miles; then east thirty miles; then south six miles; then east to *Schuduc-River*; then down the middle of that river (through the *Schuduc Ponds*) to the southeast corner of township number seven, in the east division, being a heap of stones by a rock-maple tree on the west bank of *Schuduc-River*, marked thus Λ 1764; then south forty-five degrees west, two miles one hundred eighteen rods, to a heap of stones and white-pine tree marked, on the northeast side of *Meddy-Bemps Lake* or *Pond*, so called; then southerly through said pond to the outlet thereof or beginning of *Denney's River*; then down the middle of *Denney's River* to a white-pine tree on the west bank thereof, marked for the northeast corner of number ten in said east division; then south eighty-one degrees west, one mile one hundred rods to a spruce tree, the northwest corner of number ten; then south nine degrees east, seven miles to the north line of number twelve; then south eighty-one degrees west, to the east line of *Machias*; then

then north ten degrees weſt, on *Machias* line, to the north-eaſt corner thereof; then ſouth eighty degrees weſt, eight miles to the northweſt corner of *Machias*; then ſouth ten degrees eaſt to the northeaſt corner of number twenty-two in ſaid eaſt diviſion; then ſouth eighty degrees weſt, ſix miles one hundred and fifty rods to a beach-tree, the northweſt corner of number twenty-two on the eaſt line of number thirteen in the middle diviſion; then north to the northeaſt corner of ſaid number thirteen; then weſt on the north line of number thirteen, twelve, eleven, ten, nine and eight, to the firſt mentioned bounds.

Provided nevertheleſs, That there be reſerved, out of each townſhip, four lots, of three hundred and twenty acres each, for public uſes, *to wit*. One for the uſe of a public Grammar-School forever; one for the uſe of the Miniſtry; one for the firſt ſettled Miniſter, and one for the benefit of public Education in general, as the General Court ſhall hereafter direct. Proviſo.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That two thouſand ſeven hundred and twenty tickets be printed off and ſold for *Sixty Pounds* each; and that the ſaid fifty townſhips be delineated and numbered on a plan or plans to be made and entered in a book for that purpoſe; and that the reſidue of the ſaid townſhips, after making the reſervations before-mentioned, be divided into as many lots, to be drawn as prizes, as there are tickets, and be numbered accordingly: and that there ſhall be one lot or prize of a townſhip; two prizes of half a townſhip each; four prizes of a quarter of a townſhip each; ſix prizes of three miles by two miles each; twenty prizes of two miles by two miles each; forty prizes of three miles by one mile each; one hundred and twenty prizes of two miles by one mile each; four hundred prizes of one mile ſquare each; ſeven hundred and ſixty one prizes of one mile by half a mile each; and thirteen hundred and ſixty-ſix prizes of half a mile ſquare each; reſerving, nevertheleſs, as is in this Act beforementioned; making in the whole, two thouſand ſeven hundred and twenty lots or prizes. Number of tickets to be printed, &c. Number and value of prizes.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the ſeveral purchaſers and proprietors of the tickets in the ſame Lottery ſhall be entitled to have and hold to themſelves, their heirs and aſſigns forever, ſuch prize-lots of the ſaid fifty townſhips as may be drawn by their tickets reſpectively, upon producing the ſame to the Secretary of the Commonwealth within ſix months after drawing the ſaid Lottery, and having the ſame regiſtered by him as is herein after provided: and ſuch regiſtry ſhall enure and operate to all intents and purpoſes as a grant of the ſame lots reſpectively, on behalf of this Commonwealth, to the propriétor or proprietors of the tickets ſo drawing the ſame, without any other or further deed or writing whatever; and an atteſted copy of ſuch regiſtry ſhall be ſufficient evidence of the party's title to the ſame. Proprietors of tickets—their title ſecured.

SECT.

Managers appointed.

SECT. 4. *And be it further enacted by the authority aforesaid*, That the Hon. *Samuel Phillips* and *Nathaniel Wells*, Esquires, and *John Brooks*, *Leonard Jarvis* and *Rufus Putnam*, Esquires, be and they hereby are appointed Managers of the said Lottery; and shall be sworn to the faithful performance of their trust; and that they procure the said tickets, to be printed on good paper, and number and check the same; and that they lay down in a book and number the townships and lots as aforesaid; and that they publish the foregoing scheme of this Lottery in such of the public news-papers as they may judge best, in order to promote a speedy sale of the tickets. And that immediately on drawing the said Lottery, they publish an account of the numbers and prizes in one of the public news-papers, and forthwith return to the Secretary the book and plans aforesaid of the said townships and lots, together with an account and list of the numbers and prizes drawn by the respective numbers in opposite columns fairly entered therein; and sign the same book, and annex their seals to their names respectively.

Managers to be sworn.

An account of prizes to be published, &c.

Secretary to register the names, &c. of proprietors.

SECT. 5. *And be it further enacted by the authority aforesaid*, That when the proprietor of a ticket shall produce the same to the Secretary, the said Secretary shall enter and register in the book, so to be returned to him by the Managers against the number of such ticket and the prize-lot it may have drawn, the name of such proprietor, with the place of his abode, and his addition, in three distinct columns, and certify the amount of the prize on the back of such ticket, and deliver the same to the proprietor thereof, if he shall request it, without demanding therefor any fee or reward.

Drawing, when to commence.

SECT. 6. *And be it further enacted by the authority aforesaid*, That the said Lottery shall commence drawing in the town of *Boston* on the first Wednesday of *March* next at furthest; and in case all the tickets shall be sold before the said first Wednesday of *March*, that then the said Managers may and shall proceed forthwith to draw the same; and such tickets as may remain unsold on the said first Wednesday of *March* shall be the property of this Commonwealth. And the Managers aforesaid shall, previous to their beginning to draw the said Lottery, then deposit the tickets which remain so unsold in the Treasurer's office, with a list of their numbers respectively.

Tickets may be sold for public securities or silver and gold.

SECT. 7. *And be it further enacted*, That the said tickets may and shall be sold for the consolidated notes of this Commonwealth, or for the public securities of the United States, called final settlements, or for any other public securities on interest of the United States or of this Commonwealth, or for silver and gold; and the said Managers are hereby directed accordingly. And in order to encourage the settlement and improvement of the said Lands:

SECT.

SECT. 8. *Be it further enacted by the authority aforesaid*, That the said lots of land, which shall be so drawn as prize, shall be exempted from every state or continental land tax from the date hereof during the term of fifteen years; and that no state or continental tax on the polls of such persons as shall settle and reside on such lots as shall be so drawn as prize, or on their estates actually within the same, shall be levied or assessed for and during the term of fifteen years from the date of this Act.

Lands drawn, exempted from taxes for fifteen years.

Polls exempted

SECT. 9. *And be it further enacted by the authority aforesaid*, That if any person shall forge, counterfeit or alter, or knowingly and wilfully act or assist in forging, altering or counterfeiting any lottery-ticket that shall be issued by virtue of this Act; or shall pass, utter, exchange or barter any such altered, forged or counterfeited ticket, knowing the same to be so forged, counterfeited or altered; or shall forge and counterfeit, or procure to be forged and counterfeited, or knowingly and wilfully act or assist in forging, altering or counterfeiting any letter of attorney or instrument, or the books of the said Managers, to receive the benefit and advantage of any prize that may be drawn in the said Lottery, or to deprive the true and lawful owner thereof; or shall knowingly and fraudulently demand to have any prize-ticket registered for his use by virtue of such counterfeit or forged letter of attorney or instrument; or shall falsely or deceitfully personate any true and lawful proprietor of a ticket, thereby transferring or endeavouring to transfer and convey the same, or receiving or endeavouring to receive the benefit and advantage thereof as if such offender were the true and lawful owner of the said ticket; in all or either of the foregoing cases the person so offending, and being thereof convicted before the Justices of the Supreme Judicial Court, shall be fined not exceeding *One Thousand Pounds*, or less than *One Hundred Pounds*, or imprisoned not exceeding twelve months; or be sentenced to be publickly whipped not exceeding thirty-nine stripes; or to sit on the gallows with a rope round his neck for the space of one hour; or to be branded, or be sentenced to hard labour pursuant to the Act in such cases lately made and provided; or to suffer all or any of the said punishments, according to the discretion of the said Justices and the nature and aggravation of the offence.

Penalty for forging or counterfeiting tickets.

SECT. 10. *And be it further enacted by the authority aforesaid*, That the said Managers be and hereby are required to pay into the treasury of this Commonwealth, as they receive the same, all such sums of money and securities as may be paid to them for tickets as aforesaid.

Managers to pay the money, &c. into the treasury.

[This Act passed *November* 9, 1786.]

An

An ACT for ſuſpending the Privilege of the Writ of *Habeas Corpus*.

[This Act paſſed *November* 10, 1786.]

An ACT for eſtabliſhing a Comptroller-General.

[This Act paſſed *November* 10, 1786.]

An ACT for rendering Proceſſes in Law leſs expenſive.

[This Act paſſed *November* 15, 1786. Repealed *March*, 1789.]

An ACT granting Indemnity to ſundry Offenders, on certain Conditions, and providing for the Trial of ſuch who ſhall neglect or refuſe to comply with ſaid Conditions, and of thoſe who ſhall be guilty of like Offences in future.

[This Act paſſed *November* 15, 1786.]

An ACT for ſuſpending the Laws for the Collection of private Debts, under certain Limitations.

[This Act paſſed *November* 15, 1786.]

An ACT for altering a certain Clauſe in an Act, entitled, "An Act regulating the Exportation of Flax-Seed, Pot-Aſh, Pearl-Aſh, Beef, Pork, barreled Fiſh, and dried Fiſh."

[This Act paſſed *November* 16, 1786. Repealed *Nov.* 14, 1787.]

An ACT appropriating the Revenue ariſing from the Duties of Impoſt and Exciſe.

[This Act paſſed *November* 17, 1786.]

An ACT to raiſe a public Revenue by Impoſt.

[This Act paſſed *November* 17, 1786.]

An ACT to raiſe a public Revenue by Exciſes.

[This Act paſſed *November* 17, 1786.]

An

An ACT providing for the Pay and Subſiſtence of the Militia that have been, now are, and may be employed by Government, in ſuppreſſing the dangerous Rebellion that has taken Place within this Commonwealth.

[This Act paſſed *February* 6, 1787.]

An ACT in Addition to an Act, entitled, "An Act granting Indemnity to ſundry Offenders on certain Conditions, and providing for the Trial of ſuch who ſhall neglect or refuſe to comply with ſaid Conditions, and of thoſe who ſhall be guilty of like Offences in future."

[This Act paſſed *February* 9, 1787.]

An ACT for the Limitation of Perſonal Actions, and for avoiding Suits at Law.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That all actions of treſpaſs, *quare clauſum fregit*, all actions of treſpaſs, detinue, trover or replevin, for goods or cattle, all actions of account, and upon the caſe, other than ſuch accounts as concern the trade of merchandize, between merchant and merchant, their factors or ſervants, all actions of debt grounded upon any lending or contract, without ſpecialty, all actions of debt for arrearages of rent, and all actions of aſſault, menace, battery, wounding and impriſonment, or any of them, which ſhall be ſued or brought at any time after the firſt day of *June* next, ſhall be commenced and ſued within the time and limitation hereafter expreſſed, and not after; *that is to ſay*, the ſaid actions upon the caſe, other than *for ſlander*, and the ſaid actions of account, and the ſaid actions of treſpaſs, debt, detinue and replevin, for goods or cattle, and the ſaid actions of treſpaſs, *quare clauſum fregit*, within four years from the firſt day of *June*, one thouſand ſeven hundred and eighty-ſeven, or within ſix years next after the cauſe of ſuch actions or ſuits, and not after; and the ſaid actions of treſpaſs, of aſſault, battery, wounding, impriſonment, or any of them, within one year next after the firſt day of *June* aforeſaid, or within three years next after the cauſe of ſuch actions or ſuits, and not after; and the ſaid actions upon the caſe for words, within one year next after the firſt day of *June* aforeſaid, or within two years next after the words ſpoken, and not after.

Actions limited. Suſpending Acts, Feb. 23, 1791, and Mar. 27, 1793. Addit. Acts, Feb. 27, 1794, as to Sheriffs, Mar. 8, 1797.

Proviſo. *Provided always*, That if, upon any of the ſaid actions or ſuits, judgment be given for the plaintiff, and the ſame be reverſed by reaſon of error, or a verdict paſs for the plaintiff, and for matter alleged in arreſt of judgment, the judgment be given againſt the plaintiff that he take nothing by his plaint, writ or bill, that in all ſuch caſes the party, plaintiff, his executor or adminiſtrator, as the caſe ſhall require, may commence a new action or ſuit, from time to time, within a year after ſuch judgment reverſed, or ſuch judgment given againſt the plaintiff, and not after.

Clauſe reſpecting actions of treſpaſs, when the treſpaſs is ſuppoſed involuntary.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That in all actions of treſpaſs, *quare clauſum fregit*, hereafter brought, wherein the defendant ſhall, in his plea, diſclaim all right, title and intereſt to the land in which the treſpaſs is by the declaration ſuppoſed to be done, and the treſpaſs be by negligence, or involuntary, the defendant ſhall be admitted to plead a diſclaimer, and that the treſpaſs was done by negligence, or involuntary, and a tender or offer of ſufficient amends for ſuch treſpaſs before the action brought, or the defendant may have leave to bring money into Court to ſatisfy the damage the plaintiff has ſuſtained; and in caſe the Jury ſhall not aſſeſs larger damages for the treſpaſs than the money tendered, or brought into Court, the defendant ſhall recover of the plaintiff his reaſonable coſts.

In actions of the caſe, &c. when the damages are aſſeſſed under £.4, the plaintiff ſhall recover only one half ſo much coſts as the damages amount to.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That in all actions of the caſe, for ſlanderous words, all actions of aſſault and battery, all actions for impriſonment, and all actions for malicious proſecutions, hereafter proſecuted in any of the courts of record, within this Government, if the Jury that inquire of the damages, do find or aſſeſs the damages under *Four Pounds*, then the plaintiff or plaintiffs, in ſuch actions, ſhall have and recover only one half ſo much coſts as the damages ſo found or aſſeſſed amount unto, without any further increaſe of the ſame; and in all other actions where the title to real eſtate does not come in queſtion, in caſe the judgment for the debt or damage be under *Four Pounds*, the plaintiff ſhall be entitled to only one fourth part ſo much coſt as the debt or damage, unleſs, in the opinion of the Court, where the ſame ſhall be determined, the plaintiff had a reaſonable expectation of larger damages than *Four Pounds*.

Proviſo. *Provided always*, That where judgment ſhall be rendered upon the report of referees, full coſt ſhall be taxed for the party recovering, notwithſtanding the judgment be under *Four Pounds*, unleſs a different adjudication reſpecting the coſts ſhall be made from the report itſelf.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That this Act ſhall not be underſtood to bar any infant, *feme covert*, perſon impriſoned, or beyond ſea, without any of the United

United States, or *non-compos-mentis*, from bringing either of the actions before mentioned, within the term before set and limited for bringing such action, reckoning from the time that such impediment shall be removed: And if any person or persons, against whom there is, or hereafter shall be any cause of suit, for every and any of the species of action herein before enumerated, who, at the time the same accrued, was without the limits of this Commonwealth, and did not leave property or estate therein that could, by the common and ordinary process of law, be attached; that then, and in such case, the person that is entitled to bring such suit or action, shall be at liberty to commence the same within the respective periods before limited, after such persons return into this Government.

Infants, *feme coverts*, or persons *non-compos-mentis*, &c. not barred from bringing actions.

SECT. 5. *Provided always, and be it further enacted by the authority aforesaid*, That this Act shall not extend to bar any action hereafter brought upon any note, in writing, made and signed by any person or persons, and attested by one or more witnesses, whereby such person or persons has promised, or shall promise, to pay to any other person or persons, any sum of money mentioned in such note, but all actions upon such note or notes, brought by the original promisee, his executor or administrator, shall and may be maintained as if this Act had never been made, any thing herein contained to the contrary notwithstanding.

Proviso.

SECT. 6. *And be it further enacted by the authority aforesaid*, That all laws respecting the limitation of personal actions, made and passed prior to the first day of *January*, one thousand seven hundred and eighty-seven, be and hereby are repealed.

Former laws repealed.

[This Act passed *February* 13, 1787.]

An ACT in Addition to the Act for the more easy Partition of Real Estate, passed *March* the *Eleventh*, 1784.

WHEREAS no provision is made, by said Act, for determining the material facts set forth in the petition for partition in case the same are controverted by any of the tenants in common:

Preamble.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That when the facts alleged in any petition for partition, hereafter to be preferred in consequence of the said Act, are controverted by any of the tenants in common, the answer or objection to the petition shall be made, in writing, in the form of a plea, to which the petitioner may reply or demur, to the end the matter in dispute may be reduced to an issue in law or fact, and receive a determination by the Court or a Jury, in the manner other issues are determined: And in case

Manner of determining facts alleged in any petition for partition, in case the same are controverted.

Manner of entering up judgment.

the iſſue be determined in favour of the petitioner, judgment ſhall be entered up by the Court, that partition be made by diſintereſted freeholders as the ſaid law directs, and proceed to appoint them accordingly: And alſo that the petitioner recover againſt the adverſe party the coſt attending the trial, and may iſſue execution for ſaid coſts in the form preſcribed by law as in other caſes. But if on ſuch pleading it be determined that the petitioner holds a leſs ſhare or proportion in common and undivided than he has in his petition alleged, the adverſe party ſhall recover againſt the petitioner his reaſonable coſt; notwithſtanding judgment may be rendered in favour of the petitioner to have an aſſignment of ſuch part of the real eſtate in ſeveralty, as he, *in fact*, holds in common and undivided.

Either party may appeal.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That either party may appeal from the judgment of the Court of Common Pleas, *that partition ſhall be made*, to the Supreme Judicial Court, before the appointment of freeholders to make partition: But if no appeal is made until after the return of the freeholders, and the judgment of the Court thereon, the judgment, *that partition ſhall be made*, ſhall not, by ſuch appeal, be again called in queſtion. And the Supreme Judicial Court ſhall, upon the complaint of the appellee, (in caſe the appellant ſhall fail to enter or proſecute his appeal) affirm the former judgment, and cauſe ſuch other proceedings to be had thereon as to have partition completed in the ſame way and manner as if the proceedings had been originally commenced in that Court.

Trial of the fact by a Jury, how determined.

Provided always, That the trial of the fact by a Jury, whether the petitioner holds in common, in the ſame proportion he alleges in his petition, or in a leſſer proportion, ſhall be determined in the county where the lands lie, unleſs the parties ſhall expreſsly agree to the contrary; in which caſe the trial by Jury may be had in ſuch county as the parties agree upon.

Rule and regulations reſpecting an appeal.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That in all *actions of partition* that ſhall be hereafter commenced, the ſame rule and regulations ſhall take place with reſpect to an appeal from an interlocutory judgment of the Court of Common Pleas, *that partition ſhall be made*, as is herein before preſcribed, upon the like judgment upon a petition for partition; any former law, uſage or cuſtom to the contrary notwithſtanding.

[This Act paſſed *February* 14, 1787.]

An ACT making perpetual an Act reſpecting the Grammar-School in *Ipſwich*, in the County of *Eſſex*.

[This Act paſſed *February* 14, 1787.]

An

An ACT for regulating the Proceedings on Probate Bonds in the Courts of common Law; and directing their Form in the Supreme Court of Probate.

Another Act, June 20, 1788.

WHEREAS every Judge of the Probate Court, upon granting letters of adminiſtration upon the eſtate of any perſon deceaſed, is by law directed to take bond to himſelf and his ſucceſſor in office; and, upon putting ſuch bond in ſuit, judgment has been always given in the name of the Probate Judge of the county for the time being only; and the having ſuch a judgment ſatisfied by levying execution iſſued thereon upon the real eſtate of the debtor, when perſonal property cannot be found ſufficient to ſatisfy the ſame, is attended with manifeſt inconveniencies: Preamble.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That when it ſhall ſatisfactorily appear, upon a hearing in chancery on an adminiſtration bond, for whoſe particular uſe and benefit the money for which execution iſſues is to enure; the judgment ſhall be rendered, that the plaintiff in his ſaid capacity (naming him) now have execution for being part of the penalty forfeited and coſts taxed at for the uſe of *A. B.* of *C.* in the county of *S.* [addition] a creditor, or heir of *E. F.* deceaſed (as the caſe may be.) And the perſon to whoſe uſe judgment ſhall be rendered in the name of the Judge of Probate as aforeſaid, may ſue out execution thereon, and have the ſame levied on perſonal or real eſtate, as he may find it neceſſary; and ſhall be deemed and taken to be the creditor, to every intent and purpoſe whatever. And when there are ſeveral perſons to whoſe uſe the monies recovered on an adminiſtration bond are to enure, there ſhall be as many ſeparate and diſtinct judgments, in form aforeſaid. Manner of rendering judgment.

And as a directory for what ſum execution ought to be awarded upon an adminiſtration bond, when it ſhall appear, upon confeſſion, verdict, demurrer or otherways, that the penalty is forfeited; and alſo that adminiſtration bonds may not, upon frivolous pretences, be put in ſuit:

SECT. 2. *Be it further enacted by the authority aforeſaid,* That when the ſuit is inſtituted at the deſire of a creditor of the deceaſed, ſuch creditor muſt firſt have his debt or damages aſcertained by judgment of Court (unleſs the eſtate is inſolvent) and likewiſe make it appear that a demand has been made of the adminiſtrator therefor; and that the adminiſtrator has refuſed or neglected to ſatisfy the ſame; or to ſhew goods or eſtate of the deceaſed for that purpoſe. When the eſtate is inſolvent, the creditor muſt produce a copy of the order of diſtribution of the eſtate of the deceaſed among the creditors, particularly ſpecifying each creditor's claim, and the dividends they are ſeverally Executions upon adminiſtration bonds, &c. how awarded.

erally entitled unto; and that a demand has been made of the adminiſtrator for his particular dividend. When an heir has the ſuit brought for his part of the perſonal eſtate, he muſt exhibit a copy of the decree of the Probate Court, aſcertaining its *quantum*; and that he has made a demand thereof upon the adminiſtrator. And in the preceding inſtances, the writ, in addition to the uſual indorſement of the name of the plaintiff or his attorney, ſhall alſo have the name of the perſon or perſons, for whoſe particular uſe and benefit the ſuit is brought, wrote thereon. And when the adminiſtrator ſhall refuſe or neglect to account, upon oath, for ſuch property of the inteſtate, as he has received, eſpecially if he has been cited by the Probate Court for that purpoſe, execution ſhall be awarded againſt him for the full value of the perſonal property of the deceaſed that has come to his hands, without any diſcount, abatement or allowance for charges and expenſes of adminiſtration or debts paid. And when it ſhall appear that the adminiſtrator ſhall have received the perſonal property of an inteſtate, and ſhall not have exhibited, upon oath, a particular inventory thereof, execution ſhall be awarded againſt him for the whole penalty of ſuch adminiſtration bond, to be diſtributed among the parties intereſted, agreeably to the directions of law. The like judgment and proceedings (ſo far as they can with propriety take place) are to be had upon bonds of executors, guardians, and others, given to the Judges of the Probate Courts in their ſaid capacity.

Suits hereafter brought, how commenced.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That all ſuits hereafter brought in the name of any Probate Judge, upon a probate bond of any kind, ſhall be originally commenced in the Supreme Judicial Court held within or for the county unto which the ſaid Probate Judges reſpectively belong.

Bonds given in the Supreme Court of Probate, ſhall be to the Commonwealth.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That all bonds given in the Supreme Court of Probate by executors, adminiſtrators or guardians, for the faithful diſcharge of their reſpective truſts, ſhall be to the Commonwealth of *Maſſachuſetts*, for the uſe and benefit of the creditors, heirs, legatees, or wards, as the nature of the bond ſhall require. And all bonds already taken in the ſaid Supreme Court of Probate, in that manner and form, are hereby declared to have been rightly taken. And when bonds taken in the Supreme Court of Probate, in form aforeſaid, ſhall be put in ſuit, the permiſſion of the ſaid Court ſhall be firſt had therefor: And all ſuch ſuits ſhall be originally commenced in the Supreme Judicial Court, and the ſame ſpecies of judgment and modes of chancery ſhall be had thereon as in this Act is preſcribed and directed to be had, upon bonds given to the Judge of any Probate Court, in ſimilar caſes.

SECT.

SECT. 5. *And be it further enacted by the authority aforesaid,* That when judgment shall be rendered upon any probate bond against the obligors, their executors or administrators, and the party or parties against whom such judgment shall be rendered, shall, by law, be entitled to a review thereof, execution shall be suspended or stayed in such counties as have but one Supreme Judicial Court annually, for the space of six calendar months, to commence on the day of rendering the judgment; and in such counties as have two Supreme Judicial Courts annually, execution shall be suspended until the next term or sitting thereof in the same county, to the end the said obligors, their executors or administrators may (if they see cause) review the same; and if a writ of review shall not be taken out and served for reversing the said judgment, within the time aforesaid, such obligors, their executors and administrators are hereby forever precluded and barred from taking out or prosecuting a writ of review upon such judgment afterwards, and execution may issue thereon, any thing contained in the Act granting to parties the privilege of reviewing within three years, notwithstanding. And when the judgment reviewed shall be in the name of the Commonwealth, the service of the writ of review shall be made by reading the same, or leaving a copy thereof with the party or parties unto whose use and benefit the same judgment enures, if he or they reside within the Government; otherwise, with the agent or attorney who prosecuted the suit, fourteen days, at least, before the sitting of the Court where the writ is returnable.

When judgment shall be rendered upon any probate bond and the party shall be entitled to a review, execution shall be suspended, &c.

[This Act passed *February* 15, 1787.]

An ACT describing the Disqualifications to which Persons shall be subjected, who have been, or may be guilty of Treason, or giving Aid or Support to the present Rebellion, and to whom a Pardon may be extended.

[This Act passed *February* 16, 1787.]

An ACT for the more safe keeping the Records of the several Courts of Justice, and the Records of Deeds within this Government.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That each Clerk of the Supreme Judicial Court that may hereafter be appointed to that office, shall, before he enter upon the duties thereof, give bond to the Treasurer and Receiver-General of this Commonwealth, in a sum not less than *One Hundred,* and not more than *Five Hundred Pounds,* at the discretion

Clerks of the Su. Jud. Court, hereafter appointed, shall give bond to the Treasurer or Receiver-General.

cretion of the ſaid Supreme Judicial Court, with one or more ſufficient ſureties for the faithful diſcharge of that truſt, and to keep up the records of the ſaid Court, or ſuch part thereof as ſhall, by the ſaid Court, be aſſigned him, ſeaſonably and in good order: and alſo to make and keep convenient and correct alphabets to the ſaid records.

Clerks of the Courts of Seſſions and Common Pleas, Regiſters of Probate, &c. ſhall give bond to the County-Treaſurer.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That the Clerks of the ſeveral Courts of General Seſſions of the Peace and of the ſeveral Courts of Common Pleas, and the Regiſters of the ſeveral Probate Courts, the Regiſters of the Maritime Court, or Court of Admiralty, within this Government, that may hereafter be appointed to that office, ſhall, before they enter upon the duties of their ſaid reſpective offices, ſeverally give bond to the Treaſurer of the county to which they ſeverally belong, in a ſum not leſs than *Fifty* or more than *Three Hundred Pounds*, at the diſcretion of the Court to which they officiate, with one or more ſufficient ſureties for the faithful diſcharge of their truſt; and for keeping up ſeaſonably and in good order the records of the ſame Court; and alſo to make and keep convenient and correct alphabets of the records of which they ſhall reſpectively be appointed officers and keepers.

Clerks that have not given bond agreeably a former law, directed to give bond in manner before directed.

Penalty for neglecting.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the Clerks and Regiſters of the ſeveral Courts aforeſaid, that have not given bond (if any ſuch there be) agreeably to an Act paſſed in the year one thouſand ſeven hundred and ſixty-three, are hereby directed and enjoined to give bond, in manner as is herein before directed, at the firſt ſeſſion of the Court of which he is Clerk or Regiſter, that ſhall be held after the paſſing this Act; and any Clerk or Regiſter that ſhall neglect to give bond as aforeſaid, or after giving ſuch bond ſhall incur a forfeiture thereof, ſhall be and hereby is declared incapable of ſuſtaining or holding the ſaid office: and if either of the ſaid Clerks or Regiſters ſhall have neglected to complete his records for more than ſix months, at any one time after the firſt day of *June* next (ſickneſs or any extraordinary caſualty excepted) ſuch neglect ſhall be adjudged a forfeiture of the bond of ſuch Clerk or Regiſter.

And to render this Act more effectual for the ſaid purpoſes:

Juſtices and Judges required to inſpect the conduct of their ſeveral Clerks.

SECT. 4. *Be it further enacted by the authority aforeſaid*, That the Juſtices and Judges of the ſaid ſeveral Courts are hereby required and directed to inſpect the conduct of their ſeveral Clerks and Regiſters with reſpect to the records aforeſaid; and upon a deficiency therein, ſuch Judge and Juſtices ſhall give information thereof, in writing, to the Treaſurer, who has the delinquent's bond in keeping; which Treaſurer ſhall forthwith put the ſame in ſuit; and the money recovered on ſuch ſuit ſhall be applied for bringing up the deficient records, under the direction of the reſpective Judge or Judges of the Court where ſuch deficiency ſhall happen; and if there be a ſurpluſage

a ſurpluſage from the bond of a Clerk of any of the lower Courts after making up the records, the ſame ſhall enure to the uſe of the county whereof the plaintiff is Treaſurer; and if in the Supreme Judicial Court, ſuch ſurpluſage ſhall enure to the uſe of the Commonwealth: and if the penalty of the bond incurred ſhall be inſufficient to make up the deficient records, the eſtate of the deficient Clerk or Regiſter ſhall be liable for the reſidue.

And whereas the Court of General Seſſions of the Peace in their ſeveral counties are, by law, authorized to remove and diſplace the Regiſter of Deeds for miſconduct in the diſcharge of his duty, but no particular method is pointed out in what manner the Court of General Seſſions of the Peace are to cauſe the ſame to be done:

The method Courts of General Seſſions ſhall proceed in diſplacing any Regiſter of Deeds for miſconduct.

SECT. 5. *Be it therefore enacted by the authority aforeſaid*, That when any Regiſter of Deeds, upon the preſentment of the Grand Jury, or information of the Attorney-General, or the perſon acting for the Government in the ſame office, ſhall, by confeſſion, demurrer, verdict, or by neglecting to appear and anſwer, after reaſonable notice, be found guilty of miſconduct or miſbehaviour in diſcharging the duties of his ſaid office, or that by reaſon of infirmity of body or mind, he is incapable of diſcharging aright, in perſon, the duties thereof; the ſaid Court ſhall enter up judgment thereon (and from whence no appeal ſhall lie) that the ſame Regiſter be removed and diſplaced from the ſaid office; and thereupon iſſue a writ to the Sheriff of the ſame county, to take the books and papers to the ſaid office belonging, and them deliver over to the Clerk of the Court of Common Pleas, to be by him carefully kept until a Regiſter ſhall be duly choſen and qualified as the law directs.

[This Act paſſed *February* 16, 1787.]

An ACT eſtabliſhing the Right to, and the Form of the Writ *De Homine Replegiando*, or Writ for replevying a Man.

Perſons impriſoned, ſhall be entitled, as of right, to the writ *De Homine Replegiando*,—unleſs, &c.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That every perſon within this Commonwealth, who ſhall be impriſoned, confined, or held in dureſs, ſhall be entitled, as of right, to the writ *De Homine Replegiando*, and to be thereby delivered; unleſs, while the writ of *Habeas Corpus* is ſuſpended by the Legiſlature, he ſhall ſtand committed by the ſpecial order of the Supreme Executive Power of the State, as dangerous to the public ſafety, or by the ſame, or by ſome ſubordinate authority of the Government, for treaſon, the death of man, counterfeiting the common currency, houſe-burning, burglary, robbery, or ſome other offence, for which, if he is convicted, he may ſuffer death or baniſhment, or unleſs he is held

held in execution upon judgment of debt, forfeiture, withernam, or by diſtreſs for taxes, or under ſentence, after conviction, for fine, coſts or in puniſhment.

And where any perſon ſtands committed by lawful authority for any crime for which he may not ſuffer death, or otherwiſe than is above in this Act ſpecified, the writ ſhall be in form following, *viz.*

COMMONWEALTH OF MASSACHUSETTS.

(Seal.) S——— ſſ.

To the Sheriff of our county of S. GREETING.

Form of the writ where any perſon ſtands committed by lawful authority.

WE command you, that juſtly and without delay, you cauſe to be replevied *C. D.* who (as it is ſaid) is taken and detained in our gaol in *N.* within our ſaid county of *S.* by the commitment of *A. B.* that he, the ſaid *C. D.* may be at our Supreme Judicial Court, next to be holden at within our county aforeſaid, upon the Tueſday of next, then and there in our ſaid Court to anſwer to all ſuch things as ſhall be then and there objected againſt him, more eſpecially for the offence for which he ſtands committed, unleſs, while the writ of *Habeas Corpus* is ſuſpended by the Legiſlature, he ſtands committed by the Supreme Executive Power of the State, as dangerous to the public ſafety, or by the ſame or ſome ſubordinate authority of the Government, for treaſon, the death of man, counterfeiting the common currency, houſe-burning, burglary, robbery, or ſome other offence, whereof if he is convicted, he may ſuffer death or baniſhment; or unleſs he is holden under execution upon judgment for debt, forfeiture, or in withernam, or by diſtreſs for taxes, or under ſentence, after conviction, for fine, or coſts, or in puniſhment. Witneſs, *W. C.* Eſq. at the day of in the year of our LORD

L. M. Clerk.

And where the plaintiff is held without order of law, the writ ſhall be in form following, *viz.*

COMMONWEALTH OF MASSACHUSETTS.

(Seal.) S——— ſſ.

To the Sheriff of our county of S. GREETING.

Form of the writ where the plaintiff is held without order of law.

WE command you, that juſtly and without delay you cauſe to be replevied, *C. D.* who (as it is ſaid) is taken and detained in a place called *N.* within our ſaid county of *S.* by the dureſs of *G. H.* that he, the ſaid *C. D.* may appear at our Court of Common Pleas, next to be holden at within and for our ſaid county of *S.* upon the Tueſday of next, then and there in our ſaid Court to demand right and juſtice againſt the ſaid *G. H.* for the dureſs and impriſonment aforeſaid, and to proſecute his replevin as the law directs: *Provided,*

Provided, That if he, the ſaid *C. D.* is held by the ſaid *G. H.* as his ward, infant, or one to whoſe ſervice he is entitled, or as a principal, to whom the ſaid *G. H.* is bail, and he ſhall make you ſecure by good and lawful mainpernors for his appearing at our Court aforeſaid, to proſecute his replevin againſt the ſaid *G. H.* and to have his body at the ſame Court, ready to be re-delivered if ordered thereunto, and to pay all ſuch damages and coſts as ſhall be then and there awarded againſt him; then and not otherwiſe you are to deliver him; and if the ſaid *C. D.* is by you delivered at any day before the ſitting of our ſaid Court, you are to ſummon the ſaid *G. H.* by ſerving him with an atteſted copy of this writ, that he may appear at our ſaid Court, to anſwer unto the ſaid *C. D.* upon his replevin. Witneſs *T. N.* Eſq. at *B.* the day of in the year of our LORD

X. Y. Clerk.

SECT. 2. *And be it enacted*, That if the plaintiff ſtands committed for any crime not before in this Act mentioned, or for any other offence, whereof, if he is convicted, he may not have ſentence of death or baniſhment thereof paſſed upon him, he ſhall have his writ from the Clerk of the Supreme Judicial Court fourteen days before the return day of the ſame, and the ſame writ ſhall be made returnable in the ſame county where the impriſonment happens, and unto the next Supreme Judicial Court, to be there holden; but if he is held by any perſon without due order of law, he ſhall have his writ from the Clerk of the Court of Common Pleas of the county wherein he is held returnable, fourteen days at the leaſt from the day of the date; and where the plaintiff is delivered by a writ, returnable into the Supreme Judicial Court, having been committed for any offence, and from which commitment he is repleviſable, he ſhall, before he is delivered, recognize before the Sheriff of the county, in perſon, with ſufficient ſurety or ſureties, in a reaſonable ſum, for his appearance at the ſame Court, to anſwer, abide and perform the order and ſentence of the ſame; which recognizance ſhall be returned into Court by the Sheriff; and when the plaintiff ſhall be delivered by a writ returnable into the Court of Common Pleas, he ſhall, before his deliverance, give bond to the uſe of the defendant, with ſufficient ſurety or ſureties, at the diſcretion of the Sheriff, to appear at the Court to which the writ is returnable, and there to proſecute his replevin againſt the defendant, to have his body there ready to be re-delivered, as the Court ſhall order, and to pay all damages and coſts that may be awarded againſt him; and the Sheriff ſhall be anſwerable, if the ſureties ſhall prove inſufficient, unleſs they are ſuch as the defendant agrees to.

Clauſe reſpecting the return of the writ.

Plaintiff to recognize, &c.

SECT. 3. *And it is further enacted*, That if the plaintiff ſhall not proſecute, or in proſecuting, ſhall be unable to ſupport his replevin, then the defendant ſhall recover his reaſonable coſts:

And

If the plaintiff shall not prosecute, or is unable to support his replevin, the defendant shall recover costs.

And if it shall be found, upon the trial, that the plaintiff is the ward or infant of the defendant, or that he the said defendant is entitled to the service of the plaintiff, or that the defendant is bail to the plaintiff, then the defendant shall have judgment against the plaintiff for a re-delivery of his body, and for such damages as the Jury shall assess against the plaintiff, with reasonable costs.

If the Sheriff shall return upon the writ that the defendant hath eloined the plaintiff's body, the plaintiff shall have a *Capias in Withernam* to take the defendant's body.

SECT. 4. *And it is further enacted*, That if the Sheriff shall return upon the writ *De Homine Replegiando*, issuing from the Court of Common Pleas, that the defendant hath eloined the plaintiff's body, so that he cannot deliver him, then the plaintiff shall, on motion to the Court, have a *Capias in Withernam* to take the defendant's body, and to keep the same until he shall produce the plaintiff, to be delivered according to the commandment of the original writ.

Provided nevertheless, That if the defendant shall give full and sufficient bail for his appearance at the Court whereunto the writ is returnable, then and there to traverse the return of the Sheriff, upon the writ *De Homine Replegiando*, that the Sheriff shall take such bail; or if the defendant cannot procure such bail, and is thereupon committed by the Sheriff, he may nevertheless at the next term (and not afterwards) be allowed to traverse the Sheriff's return of elongation, or to plead any matter of justification, in the same manner as he might have done to the original replevin: And if the Jury shall not find that he is guilty of eloining the plaintiff as set forth in the return, or if they find that the justification is supported, the defendant shall be allowed his costs against the plaintiff; but if the defendant will not traverse the return, and put himself upon the county; or if, upon traversing the same, he shall be found guilty of the elongation of the plaintiff; or if, upon pleading a justification, he shall not support the same, then the Court shall order him into the custody of the Sheriff, and shall issue an alias writ of *Withernam* to hold him, until he shall produce the body of the plaintiff, or until he can prove that the plaintiff is dead; which fact may be tried at any term of the same Court, and in the same county, by a Jury, upon the information, and at the expense of the defendant.

SECT. 5. *And it is further enacted*, That the original writ of *Withernam* shall be in form following, *viz.*

Form of the original writ of *Withernam*.

COMMONWEALTH OF MASSACHUSETTS.

(Seal.) *S.*——— ff.

To the Sheriff of our county of S.

GREETING.

WHEREAS we have heretofore, by our writ *De Homine Replegiando*, commanded you that justly and without delay [*here the original writ* De Homine Replegiando *shall be recited*] and you having returned thereupon [*here the Sheriff's return shall be recited.*]

cited.] We therefore command you, that without delay you take the body of the ſaid *G. H.* if he may be found in your precinct, and him ſafely keep, ſo that he may be at our Court of Common Pleas, next to be holden at within and for our ſaid county of *S.* on the Tueſday of next, then and there in our ſaid Court to traverſe the return aforeſaid upon our original writ *De Homine Replegiando*, and that if he ſhall be found guilty of the elongation of the ſaid *C. D.* he may be held by our alias writ of *Withernam*, until he ſhall produce the body of the ſaid *C. D.* that he may be delivered as the law directs. Witneſs *T. N.* Eſq. at *B.* the day of in the year of our LORD

X. Y. Clerk.

And the alias writ of *Withernam* ſhall be in form following, *viz.*

COMMONWEALTH OF MASSACHUSETTS. Form of an alias writ.

S——— ſſ.

(Seal.) *To the Sheriff of our county of* S.

GREETING.

WHEREAS we commanded you, by our original writ *De Homine Replegiando*, that [*here the original writ* De Homine Replegiando *ſhall be recited*] upon which writ a return was made, that [*here the return ſhall be recited*] whereupon our writ of *Withernam* was duly iſſued, commanding you that [*here the writ of* Withernam *ſhall be recited*] and at our ſaid Court, the ſaid *G. H.* [*here all the conſequent proceedings ſhall be recited*] whereupon it was conſidered and adjudged by our ſaid Court, that the body of the ſaid *G. H.* ſhould be taken and held, until he ſhall produce the body of the ſaid *C. D.* and until he ſhall pay the ſum of taxed in coſts againſt him: We therefore command you, that you take the body of the ſaid *G. H.* into your cuſtody, and him there to hold irrepleviſably in one of our gaols in our ſaid county of *S.* until he ſhall produce the body of the ſaid *C. D.* or is diſcharged by order of law. Witneſs Eſq. at *B.* the day of in the year of our LORD

Clerk.

SECT. 6. *And be it further enacted*, That in any ſtage of the proceedings upon proceſs purſuant to this Act, any perſon ſhall be permitted to appear for the plaintiff, who will ſtipulate as the Court ſhall direct for the payment of all coſts and damages that may be awarded againſt the plaintiff, although he can produce no ſpecial power for that purpoſe. Any perſon permitted to appear for the plaintiff, who ſhall ſtipulate as the Court ſhall direct, &c.

[This Act paſſed *February* 19, 1787.]

An

An ACT for the more speedy and effectual Suppression of Tumults and Insurrections in the Commonwealth.

Preamble.

WHEREAS in a free government, where the people have a right to bear arms for the common defence, and the military power is held in subordination to the civil authority, it is necessary for the safety of the State that the virtuous citizens thereof should hold themselves in readiness, and when called upon, should exert their efforts to support the civil government, and oppose the attempts of factious and wicked men who may wish to subvert the laws and Constitution of their country; and whereas a delay in suppressing tumults and insurrections, in divers counties of the State, has been attended with alarming consequences, such tumults and insurrections having lately grown into the unnatural and dangerous rebellion, which now exists in the Commonwealth: for the prevention of like consequences in future:

Duty of civil officers, in case of an insurrection.

Governor requested to exercise the powers vested in him by the Constitution.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That whenever an insurrection shall have taken place in either of the counties of the Commonwealth, to obstruct the course of justice, or the due execution of the laws, or there is reason to apprehend that a dangerous insurrection for such purposes will be excited, it shall be the duty of the civil officers in such county, as well the Sheriff as the Justices of the several Courts of Judicature within such county, immediately to give information thereof to his Excellency the Governor, for the time being; who is hereby requested thereupon to exercise the powers vested in him by the Constitution, and to give immediate directions to the Major-General or commanding officer of the division where such insurrection exists or is apprehended, and if he shall think it necessary, to the Major-General or commanding officer of any other division or divisions, to detach from his or their division or divisions, such part of the militia for the support of the civil authority, as he shall judge fully adequate for that purpose, and for the apprehension and safe keeping of those who may be concerned in such insurrection.

If, in the opinion of the Sheriff or any two Justices, it is necessary a force should be instantly raised, they shall certify the same to the Major-General, &c.

SECT. 2. *And be it further enacted by the authority aforesaid,* That if in the opinion of the Sheriff or of any two of the Justices, either of the Supreme Judicial Court, or the Court of Common Pleas in any of the counties of this Commonwealth, it shall be necessary, for the suppression of any insurrection existing or apprehended, as aforesaid, in such county, that a force shall be instantly raised and called forth for that purpose; and if, by reason of distance, the necessary aid cannot be obtained by order of the Commander in Chief, it shall be the duty of such Sheriff or Justices to certify the same, under his or their hand, to the Major-General or commanding officer of the division wherein such

ſuch county lies, or to the commanding officer of ſome regiment or corps in the vicinity, and to requeſt him or them to detach the whole, or ſuch number of the militia under the command of ſuch officer for the ſupport of the civil authority, as the ſaid Juſtices or Sheriff may think neceſſary to defeat the purpoſes of ſuch inſurgents, and to apprehend and ſafely keep them for trial, and, as ſoon as may be, to give notice of ſuch application to the Commander in Chief, that he may take the neceſſary orders thereupon; and it ſhall be the duty of ſuch Major-General or commanding officer, upon ſuch requeſt being made, to detach ſuch number of the militia as ſhall be requeſted as aforeſaid, armed and equipped according to law; and the militia ſo detached and collected ſhall afford their aſſiſtance to, and be under the direction of the civil officer or magiſtrate, unleſs in caſe of a rebellion declared by the Legiſlature.

Duty of ſuch Major General.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That if any commiſſioned officer of the militia ſhall refuſe or wilfully neglect to execute any orders he may receive from his ſuperior officer, to make a detachment from the corps under his command, or to march for the ſupport of the civil authority, or the ſuppreſſion of any inſurrection as aforeſaid, in addition to the puniſhment which may be inflicted by virtue of any Act for regulating the militia, if convicted thereof before the Juſtices of the Supreme Judicial Court, he ſhall be ſubject to be fined in a ſum not exceeding *Fifty Pounds*, and to be adjudged incapable of ſuſtaining any office in this Commonwealth for a term not exceeding ten years; to either or both of the ſaid penalties, according to the aggravation of the offence and circumſtances of the offender, as to the Juſtices of the ſaid Court ſhall ſeem meet.

Puniſhment, if officers of the militia refuſe to execute orders.

SECT. 4. *And be it further enacted*, That if any perſon, whether non-commiſſioned officer or private, and belonging either to the train-band or the alarm-liſt, who ſhall be detached or ordered to march for the ſupport of the civil authority, or the ſuppreſſion of any inſurrection exiſting or apprehended, as aforeſaid, ſhall refuſe or neglect to march, armed and equipped, in the manner and at the time which the officer, by whom he ſhall be detached, ſhall direct, or ſhall deſert or leave the ſervice before he ſhall be regularly diſcharged, if convicted thereof before the Juſtices of the Supreme Judicial Court, he ſhall be ſubject to be fined, at the diſcretion of the ſaid Court, in a ſum not exceeding *Ten Pounds*.

Penalty if non-commiſſioned officers or privates refuſe or neglect to march, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That if any perſon in public or private diſcourſe or converſation, or by any ways or means, ſhall diſſuade, or endeavour to prevent any military officer from performing the duty required of him by this Act, or any perſon or perſons detached or ordered to march for the purpoſes aforeſaid, from marching to the place of rendezvous, or from continuing in the ſervice until regularly

Penalty for diſſuading any military officer, &c. from the duty required of him.

regularly discharged, each person, so offending, being convicted thereof as aforesaid, shall pay a fine to the use of the Commonwealth not exceeding *Fifty Pounds*, and shall recognize for his good behaviour for a term not exceeding three years.

Compensation shall be made to the militia.

SECT. 6. *And be it further enacted by the authority aforesaid*, That compensation shall be made to such part of the militia as may at any time hereafter be detached or employed agreeably to, and for the purposes mentioned in this Act.

[This Act passed *February* 20, 1787.]

An ACT for incorporating the easterly Part of the Town of *Dartmouth*, in the County of *Bristol*, into a separate Town, by the Name of *New-Bedford*.

[This Act passed *February* 23, 1787.]

An ACT for incorporating a certain Plantation in the County of *Lincoln*, called *Majorbigwaduce*, or Number-Three, into a Town by the Name of *Penobscot*.

[This Act passed *February* 23, 1787.]

An ACT in Addition to, and making Provision for the more duly collecting the Revenue arising from two several Acts passed *October* the twenty-second, Seventeen hundred and eighty-three, and *July* the eighth, Seventeen hundred and eighty-six, for the Support of the Light-Houses in this Commonwealth.

[This Act passed *February* 26, 1787.]

An ACT for altering the Time for holding the Supreme Judicial Court, at the next Sessions of the same Court, in the Counties of *Hampshire* and *Berkshire*, and for adjourning the Courts next to be holden in the Counties of *Middlesex*, *Plymouth* and *Barnstable*; and to authorize any two of the Justices of the same Court to do and perform the Business of the said Courts at *Plymouth* and *Barnstable*, at the Times to which they shall respectively be adjourned.

[This Act passed *February* 26, 1787.]

An

An ACT for repealing in Part, a Clauſe in an Act paſſed the fifth Day of *March*, One thouſand ſeven hundred and eighty-five, entitled, "An Act incorporating the Plantation of *Shapleigh*, in the County of *York*, into a Town by the Name of *Shapleigh*, and for annexing certain Lands to *Lebanon*."

[This Act paſſed *February* 26, 1787.]

An ACT for preventing Perſons ſerving as Jurors, who, in conſequence of having been concerned in the preſent Rebellion, are by Law diſqualified therefor.

[This Act paſſed *February* 26, 1787.]

An ACT granting the Privilege of Review in Civil Actions. Addit. Act, June 18, 1791.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That either party aggrieved at the judgment of the Supreme Judicial Court, where only one verdict hath been given againſt him in ſuch action, may, at any time within two years, review the ſame cauſe and have one trial more; and there ſhall be no further pleadings, but the action ſhall be tried upon the review by the iſſue appearing upon the record to have been originally joined by the parties, but execution upon ſuch judgment given in the Supreme Judicial Court ſhall not be ſtayed by ſuch review, unleſs a bond ſhall be given as is in this Act provided. And the party bringing ſuch action of review, ſhall produce, in Court, atteſted copies of the writ, judgment, and all papers uſed and filed in the former trial, and each party ſhall have the liberty to offer any further evidence. Either party ſhall have the privilege of review, at any time within 2 years.

And it is alſo *Provided*, That any infant, *feme covert*, or perſon *non-compos-mentis*, impriſoned, in captivity, or out of the United States of *America*, ſhall have liberty to review their actions at any time within two years, excluſive of the time ſuch impediment exiſts. Proviſo.

SECT. 2. *And be it further enacted*, That when either party ſhall bring an action of review, and enter the ſame, the whole cauſe ſhall be tried in the ſame manner as if no judgment had been given thereon; and the former judgment may be reverſed in whole or in part, or greater damages or leſs, or no damages, may be given, as the merits of the cauſe upon law and the evidence ſhall appear to require, in the ſame manner as if both parties had brought their ſeveral writs of review. In actions of review; cauſes how tried.

When damages are recovered againſt more than one original defendant, and one or more, but not all of them, ſhall review the cauſe, the writ ſhall be purchaſed in the name of the whole.

SECT. 3. *And it is further enacted*, That when there are more than one original defendant againſt whom joint damages are recovered, and one or more, but not all of them ſhall review the cauſe, he or they ſhall purchaſe the writ therefor in the name of all the original defendants; and if any of the original defendants ſhall not appear, their non-appearance ſhall be entered upon the Court's record; and he or they who ſhall appear in ſupport of the review, may proſecute the ſame to final judgment; and if he or they who ſhall proſecute the ſame, ſhall obtain a reverſal of the former judgment in whole, he or they ſhall be entitled to coſt, and a reſtoration of the damages by him or them reſpectively paid in ſatisfaction of the former judgment: And if he or they who ſhall proſecute as aforeſaid, ſhall obtain a reverſal of the former judgment, in part only, he or they ſhall be entitled to coſts, and a reſtoration of ſo much of the damages by him or them reſpectively paid in ſatisfaction of the former judgment, as the former judgment may have exceeded the judgment upon the review as aforeſaid.

When damages are given againſt ſeveral defendants, either of them may review, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That when ſeveral damages are given againſt ſeveral defendants, either of them may review in the ſame manner as if there was no other original defendant in the cauſe; and if he ſhall obtain a reverſal of the former judgment, in whole, as to him, he ſhall be entitled to a reſtoration of all damages and coſts by him paid: And if he ſhall obtain a reverſal of the former judgment, in part only, he ſhall be entitled to coſts, and a reſtoration of ſo much of the damages by him paid in ſatisfaction of the former judgment, as the former judgment may have exceeded the judgment upon the review as aforeſaid.

When any original defendant entitled to a review ſhall ſuppoſe there is danger of loſing the ſum given in damages, &c.—directions in this caſe.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That when any original defendant or defendants entitled to, and intending to review, ſhall ſuppoſe that they will be in danger of loſing the ſum given in damages, or the goods or chattels recovered, if they are obliged to pay or deliver the ſame to the original plaintiff or plaintiffs, before a review, in all ſuch caſes ſuch defendant or defendants, his or their agent or attorney, entering into bond at the time of making up the judgment, with ſufficient ſurety or ſureties, to be approved of by the Court, with condition to proſecute a writ of review of the ſame action, with effect, at the next Supreme Judicial Court, to be holden for the ſame county, and to anſwer and pay to the original plaintiff or plaintiffs, for the damages, goods or chattels recovered, after the rate of twelve *per cent.* per annum, being double intereſt from the time of making up ſuch judgment, with additional damages and double coſts, in caſe the former judgment ſhall be affirmed in whole; and ſimple intereſt if the ſame ſhall be affirmed in part, or if the judgment ſhall be upon detinue or replevin for any goods or chattels, then to pay all ſuch damages as the Jury ſhall aſſeſs for the detention,

with

with double coſts; if the former damages are affirmed, then execution ſhall be ſtayed upon the judgment whereon the review is had.

Manner of ſerving writs when any party ſhall not be an inhabitant of this Commonwealth.

And when any party againſt whom any review is commenced, ſhall not be an inhabitant of this Commonwealth, the writ may be ſerved upon ſuch perſon as appeared for him in the former trial, or upon the agent of the ſaid party, his attorney, or truſtee, which ſhall be deemed a ſufficient ſervice; and in ſuch caſe the Court may, at their diſcretion, continue the cauſe for one or more terms, in order for the party to have perſonal notice, if they ſhall think that juſtice requires it.

When one or more, and not all the defendants, ſhall chooſe to review the cauſe, he or they ſhall give bond, &c.

Sect. 6. *And it is further enacted*, That when one or more, and not all the original defendants, againſt whom joint damages are given, ſhall chooſe to review the cauſe, he or they ſhall be obliged to give bond, for the reſponding the whole ſum given in damages, together with double intereſt and additional damages, as before provided; and no execution ſhall be iſſued againſt the other original defendants.

In real actions where the defendants live out of the Commonwealth, writs upon ter-tenants ſhall be deemed ſufficient.

Sect. 7. *And it is further enacted*, That in all real actions, where the defendant or defendants in review, live out of the Commonwealth, ſo that the writ of review cannot be ſerved upon him or them, the ſervice of ſuch writ upon the ter-tenant or perſon in poſſeſſion, ſhall be deemed a good and ſufficient ſervice, and the defendant or defendants ſhall be held to anſwer thereupon accordingly.

[This Act paſſed *February* 26, 1787.]

An ACT directing the Method for laying out Highways.

Addit. Act, June 23, 1797.

Selectmen empowered to lay out particular and private ways. Appendix, chap. 9, ſect. 2, ch. 31, ſect. 1, ch. 40, ſect. 1, Prov. law.

Sect. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the Selectmen of the ſeveral towns in this Government, are hereby authorized and empowered, either perſonally, or by ſuch other perſon or perſons, as they ſhall appoint, to lay out, within their reſpective towns, particular and private ways, for the uſe of ſuch town only; or for the uſe of one or more individuals thereof, or proprietors therein; and if any particular perſon or perſons who are owners of the land, through which ſuch private roads ſhall be laid out, be injured thereby, he or they ſhall receive ſuch recompenſe as the party intereſted and the Selectmen ſhall agree upon, to be paid by the town, or the individual perſon or perſons, for whoſe uſe the road is laid out, or as ſhall be ordered by the Juſtices in their General Seſſions of the Peace, upon an inquiry into the ſame, by a Jury to be ſummoned for that purpoſe, or by a ſpecial committee, if the parties agree thereunto.

Proviſo.

Provided always, That no private way laid out by the Selectmen, or their order, as aforeſaid, ſhall be eſtabliſhed as ſuch, until the ſame has been reported to the town, at ſome public meeting of the inhabitants thereof, regularly notified and warned, and by them approved and allowed.

Court of General Seſſions may cauſe ſuch private ways to be laid out, if Selectmen refuſe.

Appendix, chap. 9, ſect. 1, ch. 31, ſect. 2, ch. 40, ſect. 1, ch. 68, ſect. 1, Prov. law.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That if the Selectmen ſhall unreaſonably delay, or refuſe to lay out, or cauſe to be laid out, any ſuch private way, as before deſcribed, being thereunto requeſted, in writing, by one or more of the inhabitants or proprietors of land in ſuch town, then the Court of General Seſſions of the Peace for the ſame county, at any ſeſſion thereof, within one year, if the requeſt appear to them reaſonable, may cauſe the ſame private way to be laid out at the coſts of the perſons applying, by a committee of three diſintereſted freeholders, which committee ſhall eſtimate the damages occaſioned thereby (if any there be) as well as aſcertain the place and courſe of the ſaid private way. The damages to be paid by the town, if it be of general benefit, otherwiſe by the individual or individuals for whoſe uſe and benefit the way is laid out. And the Juſtices of the reſpective Courts of General Seſſions of the Peace, upon application to them made by any party aggrieved, at the continuance of any private way, may order and direct a diſcontinuance thereof, after notifying and hearing the parties intereſted therein, if they ſhall thereupon adjudge and determine ſuch diſcontinuance reaſonable.

When towns unreaſonably delay to approve or allow of any private way, &c. the perſons aggrieved may apply to the Court of Seſſions.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That when any town ſhall unreaſonably delay, or refuſe to approve and allow of any private way laid out by the Selectmen thereof, or their order, and put the ſame on record, any perſon or perſons aggrieved by ſuch delay or refuſal, may apply to the Court of General Seſſions of the Peace, for the ſame county, within twelve months after ſuch refuſal or delay; and the ſame Court, after hearing the town thereon, may accept and approve of the ſaid private way, as laid out by the Selectmen, and direct the ſame to be recorded in the town-book; or they may order the private way petitioned for, to be laid out by a committee of three diſintereſted freeholders, to be by them appointed for that purpoſe, which committee ſhall be under ſimilar directions and obligations as to locating and eſtimating the damages occaſioned thereby, as in this Act is preſcribed for a committee of five, in locating or altering a county highway.

When a highway or common road from town to town ſhall be wanting, application may be made to the Court of Seſſions.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That when a new highway, or common road, from town to town or place to place ſhall be wanting, or where an highway or common road already laid out, ſtated and eſtabliſhed, may or can with greater conveniency be turned or altered, upon application made to the Court of General Seſſions of the Peace within the ſame county, and it being determined by them to be of common convenience or neceſſity to have ſuch new way laid

laid out, or old way altered, the ſaid Court are hereby authorized and empowered, by warrant under the ſeal thereof, to appoint a committee of five diſintereſted ſufficient freeholders, in the ſame county, to lay out ſuch highway or road; which committee ſhall give ſeaſonable notice to all perſons intereſted, of the time and place of their meeting; and they ſhall be under oath to perform the ſaid ſervice, according to their beſt ſkill and judgment, with moſt convenience to the public, and leaſt prejudice or damage to private property. And they ſhall aſcertain the place and courſe of ſaid road, in the beſt way and manner they can; which having done, they, or the major part of them, ſhall make return thereof under their hands and ſeals, to the next Court of General Seſſions of the Peace to be held in the ſame county, after the ſaid ſervice is performed; to the end the ſame may be accepted, allowed and recorded, and afterwards known for a public highway.

Proviſo, in caſe any perſon ſhall be damaged in property.

Provided always, That if any perſon be damaged in his property, by the laying out or altering ſuch highway, the town or diſtrict where the ſame is, ſhall make ſuch perſon or perſons reaſonable ſatisfaction, according to the eſtimation of the committee, or the major part of them, who laid out the ſame; and ſaid committee are empowered and required, under oath, to eſtimate the ſame, and make return thereof as aforeſaid. And if any perſon find himſelf aggrieved by the doings of the ſaid committee, in locating ſaid way, or in eſtimating damages, he may apply to the Court of General Seſſions of the Peace, provided ſuch application be made to the ſaid Court that ſhall be held in the ſame county, next after the acceptance of ſuch return; and ſaid Court is hereby empowered to hear and finally determine the ſame by a Jury, under oath, to be ſummoned by the Sheriff or his deputy for that purpoſe, if the perſon complaining deſires the ſame; or by a new committee, if the perſon complaining and the agent for the town or diſtrict in which the way is laid out, can agree thereon. And if the Jury or committee agreed upon as aforeſaid, who are to be under oath, ſhall not alter ſaid way, or increaſe the damages, the perſon complaining ſhall be at all the coſts incurred on that occaſion, to be taxed againſt him by ſaid Court, otherwiſe ſuch coſts ſhall be paid by the county, and the increaſe of damages ſhall be paid by the town or diſtrict in which ſuch way is located.

Verdict of a jury, or report of a committee, with reſpect to ſuch damages, may be final.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the verdict of ſuch Jury, or the report of the committee agreed upon, as aforeſaid, being made under their hands and ſeals to ſaid Court, and by them accepted and recorded, ſhall conclude the perſon or perſons complaining, with reſpect to the damages, and alſo finally fix and determine the place of ſuch road or highway.

SECT. 6. *And be it further enacted*, That the Court of General Seſſions of the Peace may order the payment of ſuch ſum

Court may order the damages to be paid out of the treasury of the town.

sum or sums of money as shall be assessed in damages, to be paid by any town or district, in consequence of this Act, out of the treasury thereof; and in default of payment, after a reasonable time, may levy the same by warrant of distress, upon the personal property of the inhabitants, to the use and benefit of the person or persons to whom the damages may be awarded.

What buildings and fences shall be considered as boundaries, and what as nuisances, &c. Appendix, ch. 34, sect. 2, Prov. law.

SECT. 7. *And be it further enacted by the authority aforesaid*, That where buildings or fences have been erected, fronting upon, or against any training-field, burying-place, common landing place, highway, private way, street, lane, or alley, in any town, district, parish or precinct in this Government, where, from length of time, or otherwise, the breadth or quantity thereof is not known, or can be made certain by the records, or by any other boundaries, and such buildings or fences have been upheld, maintained and continued for more than forty years; such fences or buildings shall be deemed and taken to be the true ancient boundaries thereof; but no length of time (under threescore years) shall justify the continuance of a fence or building on any town or private way, or on any public highway, a common training-field, burying-place, landing-place, or other piece of land appropriated for the general use, ease or convenience of the community at large, or for the inhabitants of any particular county, town, district, parish or precinct; but the same may be removed by order of the Court of General Sessions of the Peace, or the Supreme Judicial Court, as a nuisance, upon the presentment of a Grand Jury.

[This Act passed *February* 27, 1787.]

Addit. Acts, Nov. 17, 1792, June 17, 1796.

An ACT for the due Regulation of licensed Houses.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That no person whosoever may presume to be a common victualler, innholder, taverner, or seller of wine, beer, ale, cyder, brandy, rum, or any strong liquors, by retail, or in a less quantity than twenty-eight gallons, and that delivered and carried away all at one time, except such person be first duly licensed according to law by the Justices of the Peace of the same county where such person lives, in General Sessions assembled, according to the regulations hereafter expressed; on pain of forfeiting the sum of *Twenty Pounds*; and if any person shall, at any time, sell any spirituous liquors, or any mixed liquors, part of which is spirituous, without license therefor duly had and obtained according to law, he shall forfeit and pay for each offence a sum not exceeding *Six Pounds*, nor less than *Forty Shillings*; which fine or forfeiture, as also the fine or forfeiture aforementioned, shall enure one half thereof to the informer, the other half to the county where such offence is committed.

Persons presuming to be innholders, retailers, &c. without being licensed.

Penalty.

SECT.

SECT. 2. *Be it further enacted by the authority aforesaid*, That all licenses shall be yearly renewed; and that the Clerk of the Peace in the respective counties, from time to time, annually, before the granting licenses, shall transmit to the Selectmen of every town and district within the county, a list of the names of the persons in such town or district that were licensed the year before; and that licenses shall not be renewed to any person borne on such list unless, the Selectmen of such town or district shall have considered the same, and made return thereof to the Clerk of the Peace of the county to which they respectively belong, certifying thereon as follows, *viz.*

Licenses shall be renewed yearly.

Selectmen to return a list to the Clerk of the Peace with a certificate.

WE, the subscribers, Selectmen of the town (or district) of do hereby certify, that we have maturely considered the returned list of such persons as were licensed the year past, and, to the best of our knowledge, the following persons named therein have maintained good rule and order in their respective houses or shops, and have conformed to the laws and regulations respecting licensed persons, and are firmly attached to the Constitution and laws of this Commonwealth.

Form.

And no person shall have his license renewed unless his name be inserted in such certificate, or in another of the same tenor.

Persons licensed shall be sworn.

And no person, after the first day of *June*, one thousand seven hundred and eighty-seven, shall be licensed to be a victualler, innholder, taverner, or retailer of spirituous liquors, until he has taken an oath in the following words:

I, *A. B.* do swear, that I will bear true faith and allegiance to the Commonwealth of *Massachusetts*, and that I will, to the utmost of my power, defend the Constitution and Government thereof, against traitorous conspiracies, and all hostile and violent attempts whatsoever.

Form of the oath.

Which oath may be administered by the Clerk of the Court of General Sessions of the Peace, or by any Justice of the Peace, or any town or district Clerk, in such towns or districts wherein no Justice of the Peace dwells. And the Justice or Clerk who may administer such oath, shall make certificate thereof to the Court of General Sessions of the Peace; which certificate shall be filed by the Clerk of the said Court among the records of the same Court; and a certificate that such oath has been taken, shall be made and filed as aforesaid, in cases where the Clerk of the said Court shall administer such oath; and no certificate, as aforesaid, shall be required afterwards, upon a renewal of such person's license. And no person shall be firstly or originally licensed to be a victualler, innholder, taverner, or seller of wine, beer, ale, cyder, brandy, rum, or other strong liquors, by retail, in the town or district where he lives, other than such as produce a certificate from the Selectmen

By whom administered, &c.

No person shall be originally licensed unless a certificate is produced from the Selectmen of the town.

lectmen of the ſame town or diſtrict, recommending them as follows, *viz.*

Form. WE, the ſubſcribers, Selectmen of the town (or diſtrict) of do approve of (inſerting the name of the perſon and the employment for which he or ſhe is approbated) in the ſaid town (or diſtrict) for the year enſuing; and we do hereby recommend the ſaid as a perſon of ſober life and converſation, ſuitably qualified and provided for the exerciſe of ſuch an employment, and firmly attached to the Conſtitution and laws of this Commonwealth.

Duty of Selectmen. And it ſhall be the duty of the Selectmen in the ſeveral towns, annually, to certify to the Court of the General Seſſions of the Peace, at the beginning of their term for granting licenſes, what number of innholders and retailers, in their reſpective towns, they judge to be neceſſary for the public good. And

No licenſe ſhall be renewed to perſons who ſtand preſented. that no licenſe be renewed to any perſon who ſhall have been before licenſed, againſt whom any preſentment, complaint, or information ſhall be made for miſrule or diſorder in ſuch houſe, or for not being ſuitably provided as the law in ſuch caſe requires to entertain ſtrangers and travellers at bed and board, before the matter complained of and informed againſt be inquired into and judged of.

Proviſo. *Provided*, Such preſentment or complaint be proſecuted to effect at or before the ſame Court for granting ſuch licenſes; unleſs the proſecution be delayed at the motion of the perſon applying for the licenſe.

Innholders and taverners ſhall, at all times, be furniſhed with ſuitable proviſions, &c. on pain of being deprived of their licenſe. SECT. 3. *Be it further enacted by the authority aforeſaid*, That all innholders, taverners, and common victuallers, ſhall, at all times, be furniſhed with ſuitable proviſions and lodging, for the refreſhment and entertainment of ſtrangers and travellers, paſturing and ſtable-room, hay and provender (ſaving that in populous ſea-port towns, ſtable-room, hay and provender only are required) for their horſes and cattle, on pain of being deprived of their licenſe. And every licenſed victualler, innholder, or taverner, ſhall, at all times, have a board or ſign affixed to his or her houſe, or in ſome conſpicuous place near the ſame, with his or her name at large thereon, and the particular employment for which he or ſhe is licenſed: And if any victualler, innholder, or taverner, enjoined by law to be ſuitably provided to receive and entertain ſtrangers, travellers or others, as occaſion may require, ſhall be convicted of refuſing to make ſuitable proviſion when deſired, for the receiving of ſtrangers, travellers, and their horſes and cattle, or for any public entertainment, ſuch perſon, upon being convicted thereof before the Juſtices of the General Seſſions of the Peace of the county to which ſuch perſon belongs, ſhall, by the ſaid Juſtices, be deprived of his or her licenſe; and the ſaid Juſtices ſhall be and they are hereby empowered and directed to order the Sheriff of

of the ſame county or his Deputy-Sheriff to cauſe the ſign of ſuch convicted perſon to be taken down.

Penalty if any perſon except taverners or innholders ſhall preſume to ſell any ſtrong or mixed liquors.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That no perſon except thoſe who are licenſed for common victuallers, taverners or innholders, may preſume to ſell any ſtrong liquors as in this Act mentioned, nor any mixed liquors, part of which are ſpirituous, to be drank in their houſes or any of the parts or dependencies of the ſame; and that if any perſon licenſed to ſell wine, beer, ale, cyder, brandy, rum or any ſtrong liquors by retail only, ſhall be convicted of entertaining, or ſuffering any perſon or perſons to drink ſuch ſtrong liquors, or mixed liquors, in their ſhops, houſes, or parts or dependencies of ſuch ſhops or houſes, he ſhall incur and ſuffer the like penalties and forfeitures as are inflicted by this law upon perſons ſelling without licenſe, to be recovered and appropriated in the ſame manner.

Penalty for keeping implements for gaming.

SECT. 5. *And be it enacted by the authority aforeſaid*, That no taverner, innholder, or victualler, ſhall have or keep in or about their houſes, yards, gardens, or dependencies, any dice, cards, bowls, billiards, quoits, or any other implements uſed in gaming; nor ſhall ſuffer any perſon or perſons reſorting unto any of their houſes, to uſe or exerciſe any of the ſaid games or any other unlawful game or ſport within their ſaid houſes or any of the dependencies, as aforeſaid, or places to them belonging, on pain of forfeiting the ſum of *Forty Shillings* for every ſuch offence, upon due conviction thereof, to be diſpoſed of as is herein directed; and every perſon convicted of playing, as aforeſaid, in any ſuch houſe or dependencies thereof, ſhall forfeit the ſum of *Twenty Shillings*, to be diſpoſed of as aforeſaid.

Penalty for ſuffering dancing or revelling.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That no taverner, innkeeper, or victualler, ſhall ſuffer any dancing or revelling in his houſe or the dependencies thereof, as aforeſaid, on penalty of *Thirty Shillings*, to be paid by the maſter or keeper of the ſaid houſe who ſhall ſuffer the ſame, and the penalty of *Six Shillings*, to be paid by each perſon offending in any of the ſaid particulars, to be diſpoſed of as aforeſaid.

Forfeiture for ſuffering perſons to drink to exceſs.

SECT. 7. *And be it further enacted by the authority aforeſaid*, That no taverner, innholder, or victualler, ſhall ſuffer any perſon to drink to drunkenneſs or exceſs in his or her houſe, or ſuffer any minor (travellers excepted) or ſervant to ſit drinking there, or to have any ſtrong drink there, without ſpecial allowance of their reſpective parents, guardians or maſters, on pain of forfeiting the fine of *Twenty Shillings* for every offence of that kind, to be appropriated as aforeſaid.

Penalty for a ſecond breach of this Act.

SECT. 8. *And be it further enacted by the authority aforeſaid*, That if any perſon, after being duly convicted of any breach of this law, ſhall again break any part of this law, and thereof be duly convict, he ſhall, over and above ſuffering the penalty ſet to ſuch breach of this law, recognize for his good behaviour

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in the sum of *Twenty Pounds* for one year, with two sufficient sureties, over and above his recognizance for good order, at taking out his licenſe. And if any perſon convicted of a ſecond breach of this law, as aforeſaid, ſhall preſume again to break any part of this law, over and above ſuffering the penalty of this law for ſuch breach of it, he or ſhe ſhall forfeit his or her licenſe, not to be renewed again for the ſpace of three years next following.

Puniſhment, if perſons convicted of a breach of this Act ſhall be unable or ſhall neglect to pay the fine impoſed.

SECT. 9. *And be it further enacted by the authority aforeſaid*, That if any perſon, being duly convicted of any breach of this law, ſhall be unable, or ſhall neglect to pay and ſatisfy the fine impoſed, together with the coſts of proſecution, and likewiſe give bond for his good behaviour; if it be on the ſecond conviction, within twenty-four hours next after ſentence declared in that reſpect, it ſhall and may be lawful for the Court, before whom ſuch conviction may be, to order ſuch offender to be openly whipped, not exceeding fifteen ſtripes, for one offence, nor leſs than ten, and to reſtrain the offender in priſon, until the ſaid fine and charges are paid and bond given as aforeſaid, or the order for corporal puniſhment be executed.

Perſons licenſed ſhall become bound to the Commonwealth.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That before any perſon ſhall receive a licenſe to be an innholder, taverner, victualler, or retailer of ſpirituous liquors, every ſuch perſon ſhall become bound by recognizance to the Commonwealth in the ſum of *Twenty Pounds*, as principal, with two ſureties in *Ten Pounds* each, before one or more Juſtices of the General Seſſions of the Peace, on condition following, *viz.*

Form of the recognizance.

THE condition of this recognizance is ſuch, That whereas the above-bounden *A. B.* is admitted and allowed, by the Juſtices of the General Seſſions of the Peace, to keep a tavern, inn, or victualling-houſe, and to ſell wine, beer, ale, cyder, brandy, rum, and mixed liquors, and other ſtrong liquors by retail, for the ſpace of one whole year next enſuing, and no longer, in the now dwelling-houſe of the ſaid *A. B.* and no other; if therefore, the ſaid *A. B.* during the time aforeſaid, ſhall keep and maintain good order and rule, and ſhall ſuffer no diſorders nor unlawful games to be uſed in his ſaid houſe, or in any of the dependencies thereof, and ſhall not break any of the laws for the regulation of ſuch houſes, then this recognizance to be void; otherwiſe, to remain in full force and virtue.

Perſons licenſed to be retailers of ſtrong liquors, ſhall become bound by recognizance.

And before any perſon ſhall receive licenſe to be a retailer of ſtrong liquors, to be ſpent out of his houſe, and not otherwiſe, ſuch perſon ſhall become bound by recognizance, as aforeſaid, on condition following, *viz.*

THE condition of this recognizance is ſuch, That whereas the above-bounden *A. B.* is licenſed and allowed by the Juſtices

Justices of the Court of General Sessions of the Peace, to retail strong liquors, to be spent out of his now dwelling-house or shop, for the space of one year next ensuing, and no longer, and not otherwise; if therefore, the said *A. B.* shall not break the laws made for the regulation of such retailers, and shall do and observe the directions of the law relating to such licenses, then this present recognizance to be void; otherwise, to remain in full force and virtue. Form.

Upon default, a *Scire Facias* shall issue.

SECT. 11. *And be it further enacted by the authority aforesaid*, That upon default being made upon any such recognizance, a *Scire Facias* shall issue, and judgment and execution be had in the usual form. And that no recognizance for the keeping the laws respecting the abovementioned licenses shall be put in suit for any breach thereof made after the expiration of two years from the time of taking such recognizance.

Persons licensed shall become bound also to the Commonwealth to pay excise duties, &c.

SECT. 12. *And be it further enacted*, That every person to whom any license shall be granted, before the receiving or exercising the same, over and above the recognizance required for the due observation of the laws, and keeping good rule and order as aforesaid, shall also become bound to the Commonwealth, in a distinct recognizance, with sufficient sureties, in manner as aforesaid, on condition that the person so licensed shall duly and truly pay the duties of excise, according to the regulations that are, or during the time of such person's license, may be established by law.

Time for granting licenses.

SECT. 13. *And be it further enacted by the authority aforesaid*, That the time of granting licenses to innholders and retailers, as aforesaid, shall be at the first General Sessions of the Peace that shall be held in course within the several counties on or next after the last Tuesday of *June*, annually; unless, upon application made to the General Sessions of the Peace, at any of the terms stated by law for holding said Court, and on such day and time of the sitting of such Court as the Justices of the same are wont to give their more general attendance, for license to keep an inn, tavern, a house of public entertainment, or to retail strong liquors, it shall appear to the same Court, that the person applying was unavoidably prevented from making application at the said first General Sessions of the Peace, or that the necessity of such license had taken place since that time; and in either case, that the public good makes it necessary that the same should be granted; in which case the said Justices are empowered to grant the same as though it was at the proper term for granting licenses, the person applying for such license paying therefor, for the use of the county, *Six Shillings*, over and above the usual fees and duties.

SECT. 14. *And be it further enacted*, That when it shall so happen, that any licensed innholder or retailer shall die before the year is expired for which license shall have been granted, and

If any licenſed innholder or retailer ſhall die or remove from a licenſed houſe before the year is expired, Juſtices of the Court of Seſſions empowered, &c.

and the widow of the deceaſed, if ſuch there be, or children, or other repreſentative, ſhall deſire to exerciſe ſaid employment, in ſuch licenſed houſe, the remainder of the year; and where any licenſed innholder or retailer ſhall remove from a licenſed houſe, and the purchaſer or occupier of ſuch houſe ſhall petition to be licenſed, to be an innholder or retailer in the ſame houſe for the remainder of the year; in every ſuch caſe, it ſhall be lawful, and the Juſtices of the Court of General Seſſions of the Peace are hereby empowered, at any of the terms appointed by law, for holding the ſame in ſuch county; and any two Juſtices of the Peace, *quorum unus*, are alſo empowered to grant licenſes to ſuch perſon or petitioner applying therefor, the remainder of the year. *Provided*, ſuch perſon be ſuitably qualified therefor, and recommended in manner as the law directs.

And the better to prevent intemperance, and nurſeries of vice and debauchery:

Juſtices directed not to licenſe more perſons than are neceſſary for the public good.

Sect. 15. *Be it further enacted*, That the Juſtices of the General Seſſions of the Peace, in each county, be and they are hereby directed, not to licenſe more perſons in any town or diſtrict to keep houſes for common entertainment, or to retail ſpirituous liquors, as aforeſaid, than the Juſtices ſhall judge neceſſary for the receiving and refreſhment of travellers and ſtrangers, and to ſerve the public occaſions of ſuch town or diſtrict, or are neceſſary for the public good: And all public houſes ſhall be on or near the high ſtreets, roads, and places of great reſort.

Selectmen ſhall cauſe the names of common drunkards, &c. to be poſted up in the houſes of taverners and other licenſed houſes.

Sect. 16. *And be it further enacted by the authority aforeſaid*, That the Selectmen in each town ſhall cauſe to be poſted up in the houſes and ſhops of all taverners, innholders and retailers, as aforeſaid, within ſuch towns or diſtricts, a liſt of the names of all perſons reputed common drunkards, or common tiplers, or common gameſters, miſpending their time and eſtate in ſuch houſes. And every keeper of ſuch houſe or ſhop, after notice given him, as aforeſaid, that ſhall be convicted before one or more Juſtices of the Peace, of entertaining or ſuffering any of the perſons in ſuch liſt, to drink or tipple, or game, in his or her houſe, or any of the dependencies thereof, or of ſelling them ſpirituous liquor, as aforeſaid, ſhall forfeit and pay the ſum of *Thirty Shillings*.

Selectmen ſhall forbid licenſed perſons to ſell ſpirituous liquors to exceſſive drinkers, idlers and miſpenders of time.

Sect. 17. *And be it further enacted by the authority aforeſaid*, That whenever any perſon ſhall, by idleneſs, or exceſſive drinking of ſpirituous liquors, ſo miſpend, waſte, or leſſen his or her eſtate, as thereby either to expoſe himſelf or herſelf, his or her family to want or indigent circumſtances, or the town to which he or ſhe belongs, to a charge or expenſe for the maintenance or ſupport of him or her, or his or her family, or ſhall ſo indulge himſelf or herſelf in the uſe of ſpirituous liquors, as thereby greatly to injure his or her health, or endanger

danger the loſs thereof, ſuch Selectmen ſhall, in writing, under their hands, forbid all licenſed perſons, in their reſpective towns and diſtricts, to ſell to any of the afore-deſcribed miſpenders of time and eſtate, any ſpirituous or ſtrong liquors, in this Act mentioned, for the ſpace of one year, and ſhall, in like manner, forbid the licenſed perſons of any other town or diſtrict to which ſuch miſpender may reſort for the ſame. And if any of the perſons contained in the ſaid prohibition ſhall not, in the opinion of the ſaid Selectmen, or the major part of them, have reformed during the ſaid year; in ſuch caſe, the Selectmen of ſuch town or diſtrict ſhall renew the prohibition in manner as aforeſaid; and if any licenſed victualler, taverner, innholder, or retailer of ſpirituous or ſtrong liquors, ſhall, during any ſuch prohibition, ſell to any perſon contained therein, any ſpirituous liquors, in this Act mentioned, he ſhall forfeit and pay for each offence the ſum of *Twenty Shillings*, to the uſe of the town or diſtrict where ſuch miſpender lives, to be ſued for and recovered by the Treaſurer of ſuch town or diſtrict.

Penalty for ſelling to ſuch perſons.

And whereas the giving credit to town inhabitants, and others, living near houſes of public entertainment, very much tends to the deſtructive expenſe of time and money of many perſons:

Innholders, &c. who ſhall truſt or give credit for more than 10*s.* ſhall loſe the ſums ſo truſted.

SECT. 18. *Be it therefore enacted*, That if any innholder, retailer, alehouſe-keeper, or common victualler, truſt or give credit to any perſon inhabiting in the ſame town where they are truſted, or to any perſon whoſe place of abode is within five miles' diſtance, for victuals or drink, for more than *Ten Shillings*; ſuch innholder, retailer, alehouſe-keeper, or common victualler, ſhall loſe all ſuch ſums ſo truſted, and all actions hereafter brought for ſuch debt or debts ſhall be utterly excluded and barred. And the defendant, in ſuch action, may plead the matter ſpecially, or under the general iſſue give the matter in evidence, any law, uſage or cuſtom to the contrary notwithſtanding.

And for the better inſpecting of licenſed houſes, and the diſcovery of ſuch perſons as ſhall preſume to ſell without licenſe:

Tythingmen to be choſen annually.

SECT. 19. *Be it enacted by the authority aforeſaid*, That the Selectmen in each town or diſtrict, reſpectively, ſhall take due care that Tythingmen be annually choſen, at the general meeting for the choice of town-officers, as is by law provided; and upon any vacancy, to fill up the number at any other town-meeting; which Tythingmen ſhall have power, and whoſe duty it ſhall be, carefully to inſpect all licenſed houſes, and to inform of all diſorders or miſdemeanours which they ſhall diſcover, or know to be committed in them, or any of them, to a Juſtice of the Peace, or to the General Seſſions, within the ſame county; as alſo of all ſuch as ſhall ſell ſpir-

Their duty.

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ituous liquors as aforesaid, without license: And in like manner to inform of all idle and disorderly persons, profane swearers or cursers, Sabbath-breakers, and the like offenders, to the intent they may be punished: Every of which Tythingmen shall be sworn, as other town-officers are, to the faithful discharge of his office, and shall be entitled to such part of the penalties enjoined by this Act, as by law accrues to the informer.

Fines and penalties, how disposed of.

SECT. 20. *And be it further enacted by the authority aforesaid*, That all fines and penalties arising for any of the offences aforesaid, not otherwise appropriated, shall be disposed of, one half thereof to the use of the county where the offence is committed, and the other moiety to him or them who shall inform and prosecute for the same; except where the offence is prosecuted by a Grand Jury, before the Supreme Judicial Court, or Court of General Sessions of the Peace; in which case, the whole forfeiture to be to the use of the county.

Justices of the Peace empowered to hear and determine offences where the penalty doth not exceed £.4.

And every Justice of the Peace is hereby empowered to hear and determine any of the offences above mentioned, committed within his county, where the penalty doth not exceed *Four Pounds*, and not otherwise. And every Justice of the Peace before whom such conviction shall be had, and where the party convicted doth not appeal, shall make a certificate of the same; and the Justice before whom such conviction is, shall cause the same to be fairly written, and shall return the same to the then next General Sessions of the Peace for the county where the said offence is committed, there to be read over in open Court, and filed among the records of the same Court, to the end, among other things, that it may be known that the breakers of this law are duly prosecuted.

[This Act passed *February* 28, 1787.]

An ACT for incorporating certain Persons for the Purpose of building a Bridge where Penny-Ferry has been usually kept, and for supporting the same.

[This Act passed *March* 1, 1787.]

An ACT for granting further Time to the Commissioners, appointed by Congress, for completing the running of the Line of Jurisdiction between the Commonwealth of *Massachusetts* and the State of *New-York*, on the easterly Part of the State of *New-York*.

[This Act passed *March* 1, 1787.]

An

An ACT for dividing the County of *Hampſhire* into three Diſtricts, for the Purpoſe of chooſing Regiſters of Deeds, and for determining the Places at which Courts of Probate ſhall in future be holden in the ſaid County.

WHEREAS a great part of the inhabitants of the county of *Hampſhire*, by reaſon of their diſtance from the place where the office of Regiſter of Deeds by the laws now in being, is directed to be kept, are ſubjected to great inconvenience in procuring their conveyances of real eſtate to be recorded: For remedy whereof in future: Preambl.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That the towns and diſtricts of *Northampton*, *Hadley*, *Hatfield*, *Southadley*, *Southampton*, *Amherſt*, *Granby*, *Belchertown*, *Ware*, *Pelham*, *Greenwich*, *Middlefield*, *Williamſburgh*, *Cheſterfield*, *Worthington*, *Cumington*, *Goſhen*, *Plainfield*, *Cheſter*, *Norwich*, *Weſthampton* and *Eaſthampton*, and ſuch gores or tracts of land unincorporated as may lie between any of the ſaid towns, be and they hereby are conſtituted a diſtrict for the regiſtry of deeds; and the inhabitants of the ſaid towns and diſtricts are hereby authorized to chooſe a Regiſter of Deeds for the ſaid diſtrict, in the manner provided by law; and the Regiſter ſo choſen ſhall keep his office within the ſaid town of *Northampton*; and ELEAZER PORTER, Eſquire, of ſaid *Hadley*, is hereby authorized and empowered to iſſue his warrants, directed to the Selectmen of the ſeveral towns and diſtricts aforeſaid, ordering them forthwith to convene the inhabitants of their reſpective towns or diſtricts, qualified to vote for Repreſentatives, that they may proceed to the choice of ſome meet perſon, qualified by law, for the office of regiſter of deeds, and ordering the Selectmen to ſeal up and tranſmit a tranſcript of the record of the number of votes, and perſon or perſons voted for, in their reſpective towns or diſtricts, together with the warrants to the Court of General Seſſions of the Peace next to be holden at *Springfield*, within and for the county of *Hampſhire*, on the third Tueſday of *May* next, to be opened and compared with the like returns from the other towns in ſuch diſtrict; and the perſon having the majority of votes, after being ſworn, and giving bond as by law directed, ſhall be the Regiſter of Deeds in the ſaid diſtrict, and ſhall continue in the ſaid office until the laſt day of *March*, one thouſand ſeven hundred and ninety-one, and until another is choſen. *Eleazer Porter*, Eſq. of *Hadley*, to iſſue his warrant for calling a meeting in the ſeveral towns for the choice of a Regiſter of Deeds.

SECT. 2. *Be it further enacted*, That the towns, plantations and lands in the ſaid county of *Hampſhire*, which lie north of the towns above enumerated, be and they hereby are conſtituted a ſeparate diſtrict for the regiſtry of deeds; and the

Towns & plantations north of those before enumerated, constituted a separate district for the registry of deeds.

the inhabitants of the said towns and plantations are hereby authorized to choose a Register of Deeds for the said district, in the manner provided by law; and the Register so chosen shall keep his office in the town of *Deerfield*, within the said district: and DAVID SMEAD, Esq. of *Greenfield*, within the said district, is hereby authorized to issue his warrant to the Selectmen of the several towns, and to some principal inhabitant of each of the plantations in said district, in manner, and returnable as aforesaid; and the votes being opened and compared in the said Court of General Sessions of the Peace, the person having the majority of votes, after being sworn and giving bond as aforesaid, shall continue in the said office until the last day of *March* above mentioned, and until another is chosen; and if it shall appear that no person has a majority of votes in the said districts, or either of them, the same proceedings shall be had, as are directed by law in other cases of vacancy, in the office of Register of Deeds.

David Smead, Esq. to call a meeting.

SECT. 3. *And be it further enacted*, That the persons chosen as aforesaid, shall be subject to the rules and disqualifications to which Registers of Deeds for the several counties are subject; and from and after the first day of *June* next, shall be fully authorized and empowered to register and record all deeds of conveyance of any lands or other real estate lying within the districts for which they are respectively chosen; and the record of deeds as aforesaid shall be valid to all intents and purposes whatever; and the record of any deeds of conveyance of land or other real estate, lying within the said districts, which after the said first day of *June* shall be made by any other than the persons to be chosen as aforesaid by the said districts respectively, shall be void and of no effect; and the Registers to be chosen as aforesaid shall be entitled to the same fees in the execution of their respective offices, as Registers of Deeds in the several counties are entitled to.

Towns, districts and plantations south of those before enumerated, shall be a separate district.

SECT. 4. *And be it further enacted*, That the towns, districts, plantations and lands in the said county of *Hampshire*, which lie south of the towns above enumerated, shall be a separate district for the registry of deeds, in which district the office of Register shall be kept in the town of *Springfield*: And nothing in this Act shall be taken in any manner to affect the choice of the present Register of Deeds for the said county, so far as it respects the district last aforesaid.

And whereas it would be convenient for the inhabitants of the said county of *Hampshire*, if the Courts of Probate to be holden therein should be holden in divers parts of the county:

Places for holding Courts of Probate.

SECT. 5. *Be it therefore enacted by the authority aforesaid*, That the Judge of Probate for the county of *Hampshire*, be, and hereby is directed, from and after the first day of *June* next, to hold his Courts of Probate within the said county, at the following

following places, *to wit*, three in the town of *Springfield*, three in the town of *Northampton*, three in the town of *Hadley*, and three in the town of *Deerfield*, annually, any uſage or cuſtom to the contrary notwithſtanding.

[This Act paſſed *March* 1, 1787.]

An ACT to empower the Town of *Lebanon*, in the County of *York*, to aſſeſs and collect a Tax upon the Lands lying within the ſame, for Miniſterial Charges that have ariſen ſince *June* the twenty-ſixth, One thouſand ſeven hundred and eighty-two, and ſuch as may hereafter ariſe.

[This Act paſſed *March* 1, 1787.]

An ACT eſtabliſhing and regulating the Fees of the ſeveral Officers and other Perſons hereafter mentioned, and for repealing the Laws heretofore made for that Purpoſe.

[This Act paſſed *March* 1, 1787.]

An ACT in Addition to an Act, entitled, "An Act in Addition to an Act paſſed in the Year of our LORD One thouſand ſeven hundred and ſeventy-three," entitled, "An Act to prevent the Deſtruction of Alewives and other Fiſh in *Ipſwich-River*, and to encourage the Increaſe of the ſame."

[This Act paſſed *March* 2, 1787.]

An ACT for determining at what Times and Places the ſeveral Courts of General Seſſions of the Peace and Courts of Common Pleas ſhall be held, within and for the ſeveral Counties within this Commonwealth, and for repealing all Laws heretofore made for that Purpoſe.

[This Act paſſed *March* 2, 1787. Repealed *June* 21, 1790.]

An ACT for ſetting off that Part of the home Farm of *William Whitney*, which lies in the Town of *Gardner*, to the Town of *Winchendon*.

[This Act paſſed *March* 2, 1787.]

An ACT for naturalizing *William Martin*, and others.

[This Act paſſed *March* 2, 1787.]

An ACT in Addition to an Act, entitled, "An Act more effectually to prevent the Deſertion of French Sailors."

[This Act paſſed *March* 2, 1787.]

An ACT granting certain Privileges to the Proprietors of the Slitting-Mill in the Town of *Taunton*, in the County of *Briſtol*.

[This Act paſſed *March* 2, 1787.]

An ACT in Addition to the ſeveral Laws now in force for regulating and governing the Militia of this Commonwealth.

[This Act paſſed *March* 2, 1787.]

Addit. Act, Feb. 28, 1797.

An ACT making Proviſion for the Repair and Amendment of Highways.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That all highways, town-ways, cauſeways, and bridges, lying and being within the bounds of any town, ſhall be kept in repair and amended from time to time, that the ſame may be ſafe and convenient for travellers, with their horſes, teams, carts, and carriages, at all ſeaſons of the year, at the proper charge and expenſe of the inhabitants of ſuch town (where other ſufficient proviſion is not made therefor) and there ſhall be choſen two or more ſuitable perſons in each town, at the annual meeting in *March* or *April*, who ſhall be denominated Surveyors of Highways, to be notified and ſworn in like manner as other officers of the ſame town, and in caſe of refuſal to ſerve, ſhall forfeit and pay the ſum of *Three Pounds*, to the uſe of ſuch town, diſtrict or plantation: *Provided*, no perſon ſhall be held and obliged to ſerve more than one year in three years; and the Surveyors thus choſen and ſworn, ſhall have full power and authority to cut down, lop off, dig up and remove all ſorts of trees, buſhes, ſtones, fences, rails, gates, bars, incloſures, or other matter or thing that ſhall any way ſtraiten, hurt, hinder or

Surveyors of Highways ſhall be choſen annually.

Their power.

or incommode the highway or town-way, and alſo to dig for ſtone, gravel, clay, marle, ſand, or earth, in any land not planted or incloſed, and the materials thus dug up, to remove to ſuch place or places in the highways, for the repair and amendment thereof, as they ſhall determine neceſſary.

Proviſo.

Provided always, That no Surveyor of Highways ſhall cauſe any water-courſe, occaſioned by the waſh of any highway or town-way, to be ſo conveyed by the ſide of ſuch highway as to incommode any perſon's houſe, ſtore, ſhop, or other building, or to obſtruct any perſon or perſons in the proſecution of his or her buſineſs or occupation, without the approbation and conſent of the Selectmen of ſuch town or other place, ſignified, in writing, to ſuch Surveyor; and any perſon or perſons who may conſider him or herſelf to be aggrieved by ſuch water-courſe, may complain to the Selectmen of ſuch town or other place; and the Selectmen, on receiving ſuch complaint, ſhall proceed to view ſuch water-courſe ſo complained of, and after attending to the circumſtances of the ſame, ſhall, if they think it reaſonable, direct ſuch Surveyor to alter the ſaid water-courſe in ſuch way and manner as they ſhall think juſt and proper; and when the highways are blocked up, or incumbered with ſnow, the Surveyors ſhall forthwith cauſe ſo much thereof to be removed, or trod down, as will render the roads paſſable.

Selectmen or Aſſeſſors, to aſſign limits to the Surveyors.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That the Selectmen or Aſſeſſors of each town are authorized, empowered and directed, to aſſign and appoint, in writing, annually, to the Surveyors, their ſeveral limits and diviſions of the highways and town-ways, for repair and amendment, unto which aſſignments the ſaid Surveyors are directed to obſerve and conform themſelves.

Each town ſhall raiſe ſuch ſum as may be neceſſary for the repair of highways.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That each town, at ſome public meeting of the inhabitants thereof, regularly notified and warned, ſhall vote and raiſe ſuch ſum of money, to be expended in labour and materials on the highways and town-ways, as they ſhall determine neceſſary for the purpoſe: And the Aſſeſſors ſhall aſſeſs the ſame on the polls and rateable eſtate, perſonal and real, of the inhabitants, reſidents and non-reſidents of their town, as other town charges are by law aſſeſſed, and deliver to each Surveyor a liſt of the perſons, and the ſums at which they are ſeverally aſſeſſed, for his limits. And the Surveyor ſhall give reaſonable notice (in writing, if deſired) to each perſon in his liſt, of the ſum he is aſſeſſed to the highways and town-ways, and alſo to the inhabitants within his diſtrict, aſſeſſed as aforeſaid, ſix days' notice (extraordinary caſualty excepted) of the times and places he ſhall appoint for providing materials and labouring; to the end, each perſon may have opportunity to work on the highways and town-ways, in perſon or by his ſubſtitute, or with his oxen, horſes, cart and plough, at the rates and prices the

Manner of aſſeſſing the ſame.

town shall affix to such labour, to the full amount of the sum at which he is assessed; or he may pay the Surveyor in money the sum he is assessed, in which case, the Surveyor shall carefully expend the sums thus paid, in labour and materials, for repairing the highways and town-ways in his limits, according to his best discretion. And the Surveyor, at the expiration of his term, shall render to the Assessors, for the time being, a list of such persons as shall have been deficient (if any such there be) in working out their highway rate; or otherways paying him the sum assessed therefor; which deficient sums shall by the Assessors be put in a distinct column, in the next assessment for the town tax, and collected by the Constable or Collector thereof, as other town taxes are collected and paid into the town treasury, for the use of the town.

When the sum assessed shall be insufficient, Surveyor's power in such cases.

SECT. 4. *And be it further enacted by the authority aforesaid*, That when the sum appropriated and assessed for the repair of the highways and town-ways, in the limits of any particular Surveyor, shall not fully answer, or be insufficient for that purpose, it shall be lawful for the Surveyor, with the consent of the Selectmen, or the major part of them, where such deficiency happens, to employ such of the inhabitants of the town, upon the repair of the ways in his limits, as shall make up that deficiency; and the persons thus employed shall be equitably paid out of the town treasury therefor.

Incumbrances in or across any roads, &c. may be pulled down or removed by any person.

SECT. 5. *And be it further enacted by the authority aforesaid*, That it shall be lawful for any person to pull down and remove any gates, rails, bars or fence, upon or across any highway or county road, unless such gate, bars or fence have been erected or continued by the leave and license of the Court of General Sessions of the Peace, for the same county; and if any such incumbrance be in or across any private way, the same may be removed by the order of some Justice of the Peace of the same county, unless the gate or bars were erected or continued by the leave of the town, or the person or persons for whose particular use and benefit the private way was laid out: And any person aggrieved by the removal of such gate, bars or fence, shall be relieved at the Court of General Sessions of the Peace for the same county, if, upon examination, it shall appear, that the same were erected or continued by license or leave as aforesaid.

When any incumbrance shall be adjudged a nuisance, costs of prosecution how levied.

SECT. 6. *And be it further enacted by the authority aforesaid*, That when any building, fence, or other incumbrance erected, or continued on any town or private way, or on any public highway, a common training-field, burying-place, landing-place, or other piece of land, appropriated for the general use, ease, or convenience of the community at large, or the inhabitants of any county, town, district, parish or precinct, shall, by any Court having cognizance thereof, be adjudged and determined a nuisance, and ordered to be abated, in case the materials of such building,

building, fences or other incumbrance, upon a public sale thereof at auction, shall be insufficient to pay the costs and charges of prosecution and removal; the Court from whence the process for removal shall issue, shall and may order the deficient sum to be raised and levied from the goods and chattels of the person or persons who shall be convicted of erecting or continuing the same.

SECT. 7. *And be it further enacted by the authority aforesaid*, That if any person shall lose a limb, break a bone, or receive any other injury in his person, or in his horse, team, or other property, through any defect, or want of necessary repair and amendment of any highway, causeway, or bridge; the person or persons injured thereby, shall and may recover of the county, town, the person or persons who are by law obliged to keep the same highway, causeway, or bridge in repair, in case they had reasonable notice of the defect, double the damages thereby sustained, by a special action of the case, before any Court proper to hear and determine the same. And if the life of any person shall be lost through the deficiency of the way, causeway, or bridge, or for want of rails on any bridge, the county, town, or persons who are by law obliged to repair and amend the same, shall be liable to be amerced in *One Hundred Pounds*, to be paid to the executor or administrator of the deceased, for the use of the heirs, devisees or creditors, upon a conviction before the Court of General Sessions of the Peace, or Supreme Judicial Court, on a presentment or indictment of the Grand Jury. *Provided*, The county, town, or other person or persons, who of right ought to maintain and keep the same in repair, had been previously notified of such want of repair and amendment, in writing, under the hands of two or more credible witnesses, or by the presentment of the Grand Jury, or by information of the Attorney-General, or the person acting for the Government in his absence, filed in the Court of General Sessions of the Peace, or the Supreme Judicial Court.

Damage happening through defects in ways or bridges shall be made good by the county or town.

Proviso.

SECT. 8. *And be it further enacted by the authority aforesaid*, That if any town shall neglect to vote or agree upon a sum to be assessed for the express purpose of repairing and amending the highways and town-ways, or shall not otherwise provide for effectually amending and repairing such ways, each Surveyor shall assign to the several persons in his limits, their rateable proportion of days work, and of cart, team and plough, according to his real and personal property, as near as he can, and shall assign certain days for amending and repairing the ways, having regard to the season of the year, and give notice thereof to the persons in his limits, upwards of sixteen years of age, and liable by law to be taxed, six days at least before the time assigned (except in extraordinary cases) to attend the service with suitable tools, and with carts and teams (if any they have) the notice to be in writing and delivered the person, or left at his

If towns neglect to agree upon and assess a sum for the repair of the highways, &c. Surveyors to assign each person his rateable proportion.

To assign certain days for working.

his usual place of abode; and if any person, being thus notified, shall make default of attending and working, by himself or other sufficient person in his stead, or with his cart and team, as he shall be appointed and assigned, he shall forfeit and pay *Five Shillings* for each day's neglect, and for default of his cart and team with a driver, *Ten Shillings* a day, and in that proportion for a longer or shorter space of time, one moiety to the use of the town, to be expended on the highways and town-ways as the Selectmen shall order, and the other moiety to the use of the Surveyor, to be recovered by complaint, before any Justice in the same county. *Provided*, The same be made in one year after the forfeitures are incurred, and not afterwards, according to the form hereafter prescribed; in which prosecution, the Surveyor may be admitted as an evidence, as to the time and manner of notice, and the quantum of labour assigned to the adverse party. And the penalties incurred by servants or minors, shall be recovered of the parents, masters or guardians, under whose immediate care and control they may then be.

Penalty for default of attending and working.

Proviso.

SECT. 9. *And be it further enacted by the authority aforesaid*, That the following shall be the form of the Surveyor's complaint to a Justice upon such occasion, *viz.*

Form of the Surveyor's complaint to a Justice.

To *A. B.* one of the Justices of the Peace for the county of *S.* complains *C. D.* of *R.* in the same county [addition] and one of the Surveyors of highways in the said town of *R.* for the year duly appointed and sworn, that *P. D.* of *R.* aforesaid [addition] a person by law liable to work on the highways (or *S. D.* a son or servant, or ward, as the case may be) within the limits assigned the complainant, in the same town, was assessed days (or with his cart, team, &c. as the case may be) and was duly notified to attend, and work out the same on the day or days of yet the said *P. D.* did not appear and work in person, nor did he send a sufficient substitute in his stead, but made default therein, whereby he hath forfeited, and ought to pay to the complainant the sum of one moiety to the use of the said town of *R.* to be expended on the highways and town-ways therein, as the Selectmen thereof shall direct, and the other moiety to the use of the complainant: wherefore he prays that the said *P. D.* may be cited to appear, at a short day, to shew cause (if any he has) wherefore a warrant of distress ought not to issue, to levy the said forfeitures, upon the goods and estate of the said *P. D.* and in want thereof on his body, with reasonable costs, &c. *C. D.*

Justice may issue a warrant to notify the respondent, &c.

Upon which complaint, the Justice may issue a warrant to some sworn officer, to notify the respondent, at a time and place therein mentioned, to appear and shew cause (if any he has) wherefore a warrant of distress should not issue. Which warrant

warrant may be ſerved by reading the ſame with the complaint annexed to the reſpondent, ſeven days at leaſt before the day aſſigned for a hearing, or leaving an atteſted copy thereof at the reſpondent's uſual place of abode, ſeven days or more before the day of trial. And if the reſpondent, being notified as aforeſaid, ſhall not appear, or appearing, ſhall not, in the opinion of the Juſtice (from whoſe determination herein no appeal ſhall be made) ſhew ſufficient cauſe, he ſhall enter up judgment thereon, that a warrant of diſtreſs iſſue for ſuch, or ſo much of the ſums proſecuted for, as ſhall appear forfeited, and coſts. But in caſe the reſpondent ſhall make it appear, that he was unreaſonably aſſeſſed, or that he was not duly notified thereof, or ſhall make any other legal or ſufficient excuſe to exempt him fully from the forfeitures, the Juſtice ſhall enter up judgment that the reſpondent be acquitted and diſcharged from the forfeitures for which he is now proſecuted, and that he recover againſt the complainant his coſts. And the warrant of diſtreſs for levying the forfeitures, when the ſame ſhall appear to be incurred, ſhall run in the form following, *viz.*

If the reſpondent ſhall not appear, &c. a warrant of diſtreſs ſhall iſſue.

(Seal.) S——— ſſ.

Form of the warrant.

To the Sheriff of the county of S. *or his deputy, or Conſtable of the town of* R. *in ſaid county,* GREETING.

WHEREAS *P. D.* of *R.* aforeſaid [addition] on the day of did not appear before me, *A. B.* Eſq. one of the Juſtices of the Peace for the county of *S.* to anſwer the complaint of *C. D.* of ſaid *R.* [addition] and one of the Surveyors of Highways for ſaid town, for the year for not working on the highways and townways, in ſaid town, as he was aſſigned by the ſaid *C. D.* who requeſted a warrant of diſtreſs to iſſue, for the ſum of *Shillings*, incurred by his neglect in that behalf, and for his coſts, agreeably to the ſtatute in that caſe made and provided, although duly ſummoned for that purpoſe (or appearing before me, *A. B.* Eſq. one of the Juſtices of the Peace for the county of *S.* to anſwer to the complaint of *C. D.* of ſaid *R.* [addition] and one of the Surveyors of Highways in ſaid town for the year for not working, in perſon, or with his team and cart, &c. on the highways and townways in ſaid town, as he was aſſigned by the ſaid *C. D.* did not ſhew ſufficient cauſe, wherefore a warrant of diſtreſs ſhould not iſſue for the ſum of *Shillings*, incurred by his neglect in that behalf, and for coſts, agreeably to the ſtatute in that caſe made and provided) and judgment was thereupon rendered, that a warrant of diſtreſs ſhould iſſue, for *Shillings*, being the forfeiture thus incurred, one moiety thereof to the uſe of the

the town of *R.* to be expended on the highways and townways therein, as the Selectmen thereof shall order, and the other moiety for the use of the said *C. D.* and cost taxed at which judgment is now in full force. You are therefore, in the name of the Commonwealth of *Massachusetts*, hereby commanded, that you cause to be paid and satisfied in money, to the said *C. D.* by distress and sale of the goods and chattels of the said *P. D.* the aforesaid sums, amounting in the whole to and *One Shilling and Six Pence* more for this precept, together with your own legal fees, (returning the overplus to the said *P. D.* if any there be) and for want of goods and chattels of the said *P. D.* to be by him shewn unto you, or found in your precinct, sufficient to levy the sums aforesaid, you are to take the body of the said *P. D.* and him commit to the common gaol of the said county of *S.* and the keeper thereof is directed to detain him there until he pay the sums aforesaid, with your legal fees, or he be therefrom discharged by order of law: Hereof fail not, and make due return of this precept, with your doings thereon, unto myself, within forty days next coming. Given under my hand and seal at *R.* aforesaid, this day of *Anno Domini*, 17 *A. B.* Justice of Peace.

If Surveyors neglect their duty, Forfeiture.

SECT. 10. *And be it further enacted by the authority aforesaid*, That each Surveyor of Highways who shall accept the said trust and shall neglect his duty therein, shall forfeit and pay for each neglect the sum of *Three Pounds*, one moiety to him that will prosecute therefor, and the other moiety to the use of the town whereof the delinquent is a Surveyor, to be recovered by action of debt, before any Justice of the Peace for the same county.

In case inhabitants are fined for deficiency in highways, the Surveyors shall be liable to refund the same.

SECT. 11. *And be it further enacted by the authority aforesaid*, That in case the inhabitants of any town shall be fined upon the presentment of the Grand Jury, or upon the information of the Attorney-General, or the person acting for the Government in his absence, for a deficiency in the highways, the Surveyor, within whose limits the deficient ways are, shall be liable to refund the same, with all costs, to the said inhabitants, upon an action of the case to be brought therefor. Or the Surveyor of Highways may be prosecuted on presentment or information as aforesaid, and fined for any deficiency that may arise in his limits. And the inhabitants of any town, merely as such, shall not be excluded from being witnesses, upon any prosecutions upon this statute, upon a supposition of being interested as members of the corporation.

Proviso.

Provided nevertheless, That nothing in this Act shall be so construed, as to give power to any Surveyor or other persons, to remove or pull down any fence which may be lawfully set up, or erected upon, or across any way, for the purpose of preventing the spreading of infectious disorders.

This

This Act to be in force from and after the firſt day of *September*, one thouſand ſeven hundred and eighty-ſeven.

[This Act paſſed *March* 5, 1787.]

An ACT for incorporating the Plantation called *Limerick*, in the County of *York*, into a Town by the Name of *Limerick*.

[This Act paſſed *March* 6, 1787.]

An ACT for incorporating a Plantation, in the County of *York*, called *Maſſabeſec*, by the Name of *Waterborough*.

[This Act paſſed *March* 6, 1787.]

An ACT providing an Eſtabliſhment for the Attorney-General.

[This Act paſſed *March* 8, 1787.]

An ACT in Addition to an Act, entitled, "An Act for rendering Proceſſes in Law leſs expenſive."

[This Act paſſed *March* 8, 1787. Repealed *Feb.* 14, 1789.]

An ACT for repealing any Acts or Parts of Acts heretofore paſſed by the Legiſlature of this Commonwealth, which may militate with, or infringe the Treaty of Peace entered into by the United States of *America* and *Great-Britain*.

WHEREAS certain laws or ſtatutes made and paſſed in ſome of the United States, are regarded and complained of as repugnant to the Treaty of Peace with *Great-Britain*, by reaſon whereof not only the good faith of the United States, pledged by that treaty, has been drawn into queſtion, but their eſſential intereſts, under that Treaty, greatly affected. And whereas juſtice to *Great-Britain*, as well as regard to the honour and intereſts of the United States, require, that the ſaid Treaty be faithfully executed, and that all obſtacles thereto, and particularly ſuch as do or may be conſtrued to proceed from the laws of this Commonwealth, be effectually removed: Therefore, Preamble.

Be

Acts repugnant to the Treaty repealed.

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That ſuch of the Acts, or parts of Acts, of the Legiſlature of this Commonwealth, as may be repugnant to the Treaty of Peace between the United States and his Britannic Majeſty, or any article thereof, and ſo far as they may be repugnant thereto, ſhall be and hereby are repealed: And further, that the Courts of law and equity within this Commonwealth, be and they hereby are directed and required, in all cauſes and queſtions cognizable by them reſpectively, and ariſing from, or touching the ſaid Treaty, to decide and adjudge according to the tenor, true intent and meaning of the ſame; any thing in the ſaid Acts, or parts of Acts, to the contrary thereof in anywiſe notwithſtanding.

[This Act paſſed *April* 30, 1787.]

An ACT for altering a Part of the Boundary Line between the Towns of *Boſton* and *Roxbury*, and for ratifying an Agreement made between the ſaid Towns for that Purpoſe.

[This Act paſſed *April* 30, 1787.]

An ACT for naturalizing *Edward Wyer*, and others, therein named.

[This Act paſſed *May* 1, 1787.]

An ACT for authorizing two or more Juſtices of the Supreme Judicial Court, to hold Seſſions of the ſaid Court in the Counties of *Cumberland* and *Lincoln*.

[This Act paſſed *June* 8, 1787.]

An ACT to divide the Town of *Greenwich* into two Pariſhes; and for including the north-eaſt Corner of the Town of *Belchertown*, in the South Pariſh.

[This Act paſſed *June* 21, 1787.]

An ACT to eſtabliſh Naval-Offices and Notaries Public in Places not already by Law eſtabliſhed.

WHEREAS the convenience of navigation and advancement of commerce, render an additional number of Naval-Officers and Notaries Public neceſſary:

SECT.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That there shall be held and kept at *Wiscasset*, in the town of *Pownalborough*, in the county of *Lincoln*, and in the town of *Rochester*, in the county of *Plymouth*, respectively, a Naval-Office, by such persons as shall, from time to time, be appointed, as is by law provided for the choice of such Officers in this Commonwealth.

SECT. 2. *And be it further enacted by the authority aforesaid,* That there shall be two Notaries Public in addition to the number already provided, *viz.* one at *Hallowell*, and one at *Waldoborough*, in the said county of *Lincoln*, which Naval-Officers and Notaries Public, shall be governed by all laws, resolves and orders which are now in being, or which shall hereafter be made for the governing and regulating the said Offices, and shall have all the powers which other Naval-Officers and Notaries Public, within this Commonwealth, are vested with.

[This Act passed *June* 22, 1787.]

An ACT for regulating the Fees in the Naval-Offices within this Commonwealth, and repealing the Laws heretofore made for that Purpose.

[This Act passed *June* 25, 1787.]

An ACT in Addition to an Act made in the Year of our LORD One thousand seven hundred and eighty-four, entitled, "An Act directing the Mode of transferring Real Estates by Deed, and for preventing Fraud therein."

WHEREAS it is, in and by the said Act, among other things, enacted, "That all deeds shall be acknowledged before some Justice of the Peace, by the grantor or grantors," "*Provided*, That when any grantor or lessor, as aforesaid, shall go beyond sea, or be removed out of this Government, or be dead, before the deed or conveyance by him executed, shall be acknowledged as aforesaid, in every such case the proof of such deed or conveyance, made by the oath of one or more witnesses, whose names may be thereunto subscribed before any Court of Record within this Commonwealth, shall be equivalent to the parties' own acknowledgment thereof, before a Justice of the Peace, as aforesaid," but no provision is therein made where the witnesses whose names may be thereunto subscribed are dead, as well as the grantor or grantors:

Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That in

In cases where the grantor, &c. of any deed, may be deceased before the same is acknowledged, proof of the hand writing shall shall be equivalent.

in all cases which have or may hereafter happen, where the grantor or grantors of any deed shall be deceased before the deed or conveyance by him executed, shall be acknowledged, and the witnesses whose names may be subscribed thereto, are also deceased, that the proof of the hand writing of the grantor or grantors, and of the subscribing witnesses thereto, made by the oath of two witnesses before any Court of Record within this Commonwealth, shall be equivalent to the parties' own acknowledgment thereof before a Justice of the Peace, as is in and by the said Act mentioned.

Proviso.

Provided, That it shall be made to appear to the satisfaction of the Justices of the Court, before whom such proof shall be made, that the grantee or grantees mentioned in such deed or conveyance, have in the life-time of the grantor or grantors, taken actual possession of the real estate conveyed by such deed; and that the said grantee or grantees, or some person or persons, claiming under him or them, have continued such actual possession quietly, to the time when such application shall be made to such Court for the purposes aforesaid.

[This Act passed *June* 28, 1787.]

An ACT for continuing an Act, entitled, "An Act for suspending the Laws for the Collection of private Debts under certain Limitations."

[This Act passed *June* 30, 1787.]

An ACT to empower the second Parish in *Scarborough*, in the County of *Cumberland*, to exchange the Parsonage Lands belonging to the said second Parish for twenty Acres of Marsh lying within the said Town.

[This Act passed *July* 2, 1787.]

An ACT for naturalizing *John Gore*, Esquire.

[This Act passed *July* 2, 1787.]

An ACT for incorporating the westerly Part of the Town of *Dartmouth*, in the County of *Bristol*, into a separate Town by the Name of *Westport*.

[This Act passed *July* 2, 1787.]

An

An ACT to prevent the Deſtruction, and to regulate the Catching of the Fiſh called Alewives, in their Paſſage up the Rivers and Streams in the Town of *Harwich*, in the County of *Barnſtable*.

[This Act paſſed *July* 4, 1787.]

An ACT for ſetting off *John Dexter*, and others, therein named, with their Eſtates, from the North Pariſh in *Malden*, and annexing them to the South Pariſh in the ſaid Town.

[This Act paſſed *July* 5, 1787.]

An ACT for changing the Name of *Thomas Greaves Ruſſell*, to *Thomas Ruſſell Greaves*.

[This Act paſſed *July* 6, 1787.]

An ACT repealing an Act paſſed in the Year of our Lord One thouſand ſeven hundred and eighty-three, entitled, "An Act for raiſing, by Lottery, the Sum of *Three Thouſand Pounds*, for the Purpoſe of building a Glaſs-Houſe and promoting the Manufacture of Crown and other Glaſs in *Boſton*;" and for the Purpoſe of promoting the Manufacture of Crown and other Glaſs within this Commonwealth.

[This Act paſſed *July* 6, 1787.]

An ACT in Addition to an Act, entitled, "An Act for erecting the northerly Part of the Town of *Shuteſbury*, and that Part of a Tract of Land called *Ervingshire*, which lies on the South Side of *Miller's River*, into a ſeparate Town by the Name of *Wendell*."

[This Act paſſed *July* 6, 1787.]

An ACT in Addition to an Act, entitled, "An Act declaring and confirming the Citizenſhip of *John Gardiner*, Eſq. Barriſter at Law, *Margaret Gardiner*, his Wife, *Ann Gardiner*, *John Silveſter John Gardiner* and *William Gardiner*, their Children," paſſed in the Year of our Lord One thouſand ſeven hundred and eighty-four.

[This Act paſſed *October* 25, 1787.]

An ACT for naturalizing *Bartholomy de Gregoire*, *Maria Thereſa de Gregoire*, his Wife, and their Children.

[This Act paſſed *October* 29, 1787.]

An ACT for enabling Proprietors of Private Ways and Bridges to repair them in equal Proportion.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That when and ſo often as any number of the proprietors and rightful occupants of any private way or bridge, where there are four, or more than four of them, ſhall judge a proprietors' meeting neceſſary, three of them, applying to a Juſtice of the Peace within and for the county where the ſaid way or bridge lies, ſuch Juſtice is hereby authorized and empowered to grant a warrant for calling the ſame, or otherwiſe one fourth part of the ſaid proprietors may, of themſelves, call ſuch meeting; in either caſe to be done by warrant under the hand of the ſaid Juſtice, poſted up in ſome public place or places, in the town or towns where the ſaid proprietors and rightful occupants live reſpectively, ſeven days at leaſt before the time appointed for ſuch meeting, ſignifying the time, place, and buſineſs thereof; and the major part of the proprietors and rightful occupants ſo aſſembled, ſhall have full power to determine, by a major vote, on any other way of calling meetings in future, and to chooſe a Clerk and Surveyor, who ſhall be ſworn to the faithful diſcharge of their reſpective truſts, as town officers are, and to determine what repairs on the ſaid way or ways, bridge or bridges are neceſſary; and alſo each proprietor's and occupant's proportion of labour and materials neceſſary for repairing the ſaid way or ways, bridge or bridges; and ſuch Surveyor, ſo choſen and ſworn, ſhall have the ſame power with reſpect to ſuch ways or bridges, as the Surveyors of Highways are by law inveſted with, and ſhall be governed by the ſame rules as are preſcribed by law for their direction; and in caſe of neglect or refuſal of any proprietor or occupant, in attending the ſaid work, by himſelf or other ſufficient perſon in his ſtead, or furniſhing materials when required by the ſaid Surveyor, neceſſary for the repair of the ſaid ways or bridges, agreeably to the determination of the ſaid proprietors, he or ſhe ſhall be ſubject to the ſame fines and penalties as are provided in caſe of town highways, and to be recovered in the ſame manner.

Manner of calling proprietors' meetings.

A Surveyor, &c. ſhall be choſen.

SECT. 2. *And be it further enacted*, That if any Surveyor, choſen as is provided by this Act, ſhall refuſe or neglect to accept

cept that truſt, and take the oath aforeſaid, he ſhall forfeit and pay the ſum of *Twenty Shillings*, to be recovered in manner aforeſaid: And all fines and forfeitures incurred by breach of this Act ſhall be applied for the uſe of the propriety for repairing the ſaid ways or bridges.

Penalty if any Surveyor neglects to accept that truſt.

[This Act paſſed *November* 12, 1787.]

An ACT for incorporating a Number of the Inhabitants of the Town of *Worceſter*, in the County of *Worceſter*, into a ſeparate Pariſh.

[This Act paſſed *November* 13, 1787.]

An ACT for the further regulating the Aſſize of barrel Beef and Pork.

Repealed ſo far as reſpects the inſpection of beef, March 4, 1800.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That from and after the paſſing this Act, every barrel of beef, ſalted for ſale or exportation, ſhall contain, at the leaſt, two hundred pounds weight of beef; and every half barrel, one hundred pounds weight of beef, conſiſting of a due proportion of the beſt as well as the pooreſt part of each quarter reſpectively, without having any part culled out; to be packed in good ſound full bound caſks: And from and after the firſt day of *Auguſt* next, every barrel and half barrel of beef, ſo packed, ſhall be in white-oak caſks, clear of ſap and full bound. And from and after the paſſing this Act, every barrel of pork, ſalted for ſale or exportation, ſhall contain at the leaſt two hundred pounds weight of pork, and every half barrel one hundred pounds weight of pork; conſiſting of a due proportion of the beſt as well as the pooreſt part of each hog, without having any part culled out; and each barrel containing not more than three half heads, and ſix legs, to be packed in good ſound white-oak full bound caſks: And from and after the firſt day of *Auguſt* next, every barrel of pork ſo packed, ſhall be in white-oak caſks, clear of ſap and full bound. And the ſeveral packers of ſalted beef and pork within this Commonwealth, are hereby directed to govern themſelves accordingly, under the ſame penalties as are already in ſuch caſes by law provided. And for the more effectually carrying into execution the proviſions of this Act:

Quantity each barrel, &c. ſhall contain, and how packed.

SECT. 2. *It is further enacted by the authority aforeſaid*, That if any perſon ſhall, from and after the paſſing this Act, offer for ſale, or ſell any caſk of ſalted beef or pork, not containing the quantity, and packed in the manner provided in this Act, he ſhall forfeit for every caſk of ſalted beef or pork he ſhall ſo offer

Forfeiture, if not packed, &c. as provided by this Act.

offer for ſale, the ſum of *Three Pounds*, lawful money, to be recovered by action, information or indictment, in any Court proper to try the ſame, one moiety thereof to the uſe of the perſon proſecuting for the ſame, and the other moiety to the uſe of the poor of the town wherein the offence ſhall have been committed.

Former Act repealed.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That an Act, entitled, "An Act for altering a certain clauſe in an Act, entitled, "An Act regulating the exportation of flax-ſeed, pot-aſh, pearl-aſh, beef, pork, barreled fiſh and dried fiſh," made and paſſed in the year of our Lord, one thouſand ſeven hundred and eighty-ſix, from and after the paſſing this Act, be and hereby is repealed.

[This Act paſſed *November* 14, 1787.]

An ACT for the Continuance of, and in Addition to an Act, entitled, "An Act for ſuſpending the Laws for the collecting of private Debts, under certain Limitations."

[This Act paſſed *November* 15, 1787.]

An ACT for eſtabliſhing Public Lights on the north End of *Plumb-Iſland*, in *Ipſwich-Bay*, in the County of *Eſſex*.

[This Act paſſed *November* 16, 1787.]

An ACT to annex a Gore of Land to the Town of *Long-Meadow*.

[This Act paſſed *November* 16, 1787.]

An ACT to unite the firſt and ſecond Precincts in the Town of *Leominſter*, in the County of *Worceſter*, into one Pariſh.

[This Act paſſed *November* 16, 1787.]

An ACT for naturalizing *Alexander Moore*, and others, herein named.

[This Act paſſed *November* 16, 1787.]

An ACT to enable *Jeduthun Richardſon* to turn the Water in *Richardſon-River*, ſo called, in *Woburn*, in the County of *Middleſex*.

[This Act paſſed *November* 16, 1787.]

An

An ACT in Addition to an Act, entitled, "An Act to raiſe a public Revenue by Exciſe."

[This Act paſſed *November* 16, 1787.]

An ACT for incorporating certain Perſons for the Purpoſe of Building a Bridge over the River between *Salem* and *Beverly*, and for ſupporting the ſame. Addt. Act, June 29, 1798.

[This Act paſſed *November* 17, 1787.]

An ACT to incorporate certain Perſons by the Name of *The Society for propagating the Goſpel among the Indians, and others, in North-America.*

[This Act paſſed *November* 19, 1787.]

An ACT for the Relief of poor Priſoners who are committed by Execution for Debt. June 22, 1789, extended to executions on the confeſſion Act.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That when any perſon ſtanding committed by force of any execution iſſuing from any Court in this Commonwealth, on a judgment recovered by any perſon, ſhall complain, that he or ſhe hath not eſtate ſufficient to ſupport him or her in priſon, the gaoler, or keeper of ſuch priſon, ſhall, on ſuch complaint, apply to one of the Juſtices of the Peace within and for the county in which ſuch priſon is, who ſhall thereupon make out a notification, in writing, under his hand and ſeal, thereby ſignifying to the creditor, or creditors, ſuch priſoner's deſire of taking the privilege and benefit allowed in and by this Act, and of the time and place appointed for the intended caption of the oath or affirmation allowed by this Act, and which being ſerved on the creditor or creditors of the ſaid priſoner, if he, ſhe or they live within this Commonwealth, his or her executor or adminiſtrator; and if ſuch creditor or creditors live out of this Commonwealth, upon his or their agent or attorney, who brought forward the ſuit on which the judgment whereon the execution by which the priſoner ſtands committed, was rendered, by the Sheriff, or his deputy, of the county in which the ſaid ſervice ſhall be made, either by reading the ſame to him or her, or by leaving an atteſted copy thereof, at the uſual place of abode of ſuch creditor or creditors, agent or attorney as aforeſaid, at leaſt thirty days before the time appoint- Clauſe reſpecting perſons who ſtand committed, and have not ſufficient eſtate to ſupport themſelves in priſon.

ed for taking the said oath or affirmation, that he, she, or they may be present, if they see cause. *Provided*, That if any creditor or creditors live out of this Commonwealth, and have no agent or attorney, as aforesaid, living in the same, an attested copy of such notification shall be left with the Clerk of the Court, or the Justice by whom the said execution was signed, at least fifty days before such intended caption.

Justices of the Peace empowered to administer an oath or affirmation.

SECT. 2. *And be it further enacted*, That any two Justices of the Peace within and for the county where such caption is to be taken, each of whom shall be of the quorum, and disinterested, and not related either to the creditor or debtor, are hereby authorized and empowered, at the time and place appointed for the taking such caption, to examine the return of the said notification; and if it shall appear to be duly made, to administer the said oath or affirmation, after fully examining and hearing the parties, if they, the said Justices, shall think proper so to do, to such debtor; which oath or affirmation shall be in the form following, *to wit.*

Form of the oath.

I do solemnly swear before Almighty God, (or affirm, as the case may be) that I have not any estate, real or personal, in possession, reversion or remainder, sufficient to support myself in prison, or to pay prison-charges; and that I have not, since the commencement of this suit against me, or at any other time, directly or indirectly, sold, leased, or otherwise conveyed or disposed of to, or intrusted, any person or persons whomsoever with all or any part of the estate, real or personal, whereof I have been the lawful owner or possessor, with any intent or design to secure the same, or to receive, or to expect any profit or advantage therefor; or have caused, or suffered to be done, any thing else whatsoever, whereby any of my creditors may be defrauded. *So help me GOD;* (or this I do under the pains and penalties of perjury, as the case may be.)

Certificate of such oath to be made.

Which oath, or affirmation, being administered by the said Justices to, and taken by such prisoner, and a certificate thereof made under the hands and seals of the Justices administering the same, to such gaoler or prison-keeper, he shall thereupon set such prisoner at liberty, if he or she is committed for no other cause, and the body of such prisoner shall not be held in prison any longer upon such execution; which certificate, to be made by the Justices as aforesaid, shall be in the form following, *to wit.*

S.—— ff.

To *Keeper of the Gaol at*

Form of the certificate.

WE, the subscribers, two of the Justices of the Peace for the said county of *S.* and each of us of the quorum, hereby certify, that *A. B.* a poor prisoner, confined upon execution

execution for debt, in the gaol at *C.* aforesaid, hath caused *D. E.* the creditor, at whose suit he was so confined, to be notified according to law, of his, the said *A. B.*'s desire of taking the benefit of an Act, entitled, "An Act for the relief of poor prisoners, who are committed by execution for debt;" that, in our opinion, the said *A. B.* hath not any estate, either real or personal, sufficient to support himself in prison, and that he hath not conveyed or concealed his estate with design to secure the same to his own use, or to defraud his creditors, and that we have, after due caution to the said *A. B.* administered to him the oath (or affirmation) prescribed in the Act aforesaid. Witness our hands and seals this day of *Anno Domini*,

Penalty if convicted of perjury.

SECT. 3. *And be it further enacted by the authority aforesaid*, That if any such prisoner, as aforesaid, shall be convicted of having sold, leased or otherwise conveyed, concealed, or disposed of, or intrusted his or her estate, or any part thereof, directly or indirectly, contrary to his or her foregoing oath, or affirmation, he or she shall not only be liable to the pains and penalties of wilful perjury, but shall receive no benefit from the said oath or affirmation; and in case such prisoner, at the time of the intended caption, shall not take the said oath or affirmation, or be not admitted thereto by the said Justices, he shall be remanded back to prison, and shall not be entitled to the benefit of this Act, unless a new notification be made out, and served in manner as aforesaid.

Judgments obtained against such prisoners, shall remain good and effectual.

SECT. 4. *And be it further enacted*, That all and every judgment obtained against such prisoners, shall, nothwithstanding such discharge, as aforesaid, be and remain good and effectual in law, to all intents and purposes, against any estate whatsoever, which may then, or at any time afterwards, belong to him or her; and the creditor or creditors, agent or attorney, their executors or administrators may take out a new execution against the lands, tenements, hereditaments, goods and chattels of such prisoner (his wearing apparel and household furniture necessary for himself, his wife and children, and tools necessary for his trade or occupation only excepted) for the satisfaction of the debt, in such sort and manner as might have been done in case the said prisoner had never been taken in execution.

Persons now in execution, who have been admitted to the oath prescribed in a former Act, shall be discharged from prison.

SECT. 5. *And be it further enacted*, That all and every person or persons now in execution and confined in any of the gaols in this Commonwealth, who have been duly admitted to the oath prescribed in an Act made and passed in the year of our Lord, one thousand seven hundred and sixty-three, entitled, "An Act for the relief of poor prisoners for debt," and who are notwithstanding still held in custody on the said execution,

by his, her, or their creditor paying such weekly allowance for their support in prison, as in the same Act is provided, shall be and they hereby are discharged from such executions, whereon such oath hath been administered; and the several gaolers, in whose custody such persons may be, shall, upon due notice given them of this Act, discharge them, if they are confined for no other cause.

[This Act passed *November* 19, 1787.]

An ACT to prevent the Destruction of Oysters, and all other shell Fish, lying within the Harbours, Rivers and Bays within the Limits of the Towns of *Sandwich*, in the County of *Barnstable*, and *Wareham*, in the County of *Plymouth*, and the Towns of *Dartmouth* and *Westport*, in the County of *Bristol*.

[This Act passed *November* 20, 1787.]

An ACT making Provision for the building and maintaining Light-Houses on the Sea-Coast of this Commonwealth, and for repealing all Laws heretofore made for that Purpose.

[This Act passed *November* 21, 1787.]

An ACT authorizing the Justices of the Supreme Judicial Court to license the Sale of Real Estate by married Women, in certain Cases, and for other Purposes in the Act mentioned.

Preamble. WHEREAS it sometimes happens, that husbands absent themselves from this Commonwealth, and abandon their wives, not making sufficient provision for their support, who may be thereby reduced to great distress, not being able to make any valid contracts or dispose of any estate of their own: For remedy whereof,

Justices empowered to license the sale of real estate by married women, in cases where husbands absent themselves.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That in all such cases where any married man has heretofore, or may hereafter absent himself from this Commonwealth, abandoning his wife, and not making sufficient provision for her support or maintenance, the Justices of the Supreme Judicial Court are hereby authorized, at any of the terms of the said Court, upon the application of any such wife, to empower and enable her, during the absence of her husband from this Commonwealth, and no longer, in her own name, to make and

and execute any contract either under seal or otherwise, and by deed to sell and convey any estate, real or personal, of which, at the time of such sale, she shall be seized or possessed in her own right, and to commence, prosecute and defend any suit in law or equity, to final judgment and execution, in the same manner, as fully, and to all intents and purposes, as if she was sole and unmarried; or the said Justices may grant to any such wife any or all the powers above described, according as they shall judge the circumstances of such wife shall require.

If such husbands return, remedy shall lie against them.

SECT. 2. *And be it further enacted by the authority aforesaid*, That if any such husband should return into this Commonwealth, while any contract made by his wife, pursuant to the powers aforesaid, should remain undischarged, the same remedy shall lie against such husband as if the contract had been made by her before the marriage; and no suit pending, wherein his wife shall be a party, pursuant to the said powers, shall abate by his return into this Commonwealth.

Notice of applications shall be given.

SECT. 3. *And be it further enacted by the authority aforesaid*, That when application shall be made by any wife, for any or all of the powers aforesaid, the Justices of the said Court shall, previous to their granting any of the powers aforesaid, cause such public notice of the said application to be given, as by law they are directed in case of any libel filed by any married woman for a divorce.

[This Act passed *November* 21, 1787.]

An ACT for the Preservation of the Fish called Alewives in *Mattapoiset-River*, in *Rochester*, in the County of *Plymouth*, and for the regulating the taking the said Fish, in the said River.

[This Act passed *March* 1, 1788.]

An ACT for annexing that Part of the Town of *Scituate*, commonly called the *Two-Mile*, to the Town of *Marshfield*.

[This Act passed *March* 10, 1788.]

An ACT to prevent the Destruction of the Fish called Shad and Alewives in Ten and Three Miles Rivers, in the County of *Bristol*.

[This Act passed *March* 10, 1788.]

An ACT granting Liberty for taking the Fish called Menhaden, in *Neponset-River*, with Seines.

[This Act passed *March* 10, 1788.]

An ACT empowering the Town of *Weymouth* to regulate and order the taking and disposing of the Fish, called Shad and Alewives, within the Limits of that Town.

[This Act passed *March* 10, 1788.]

An ACT for incorporating a Number of the Inhabitants of the Town of *Portland*, in the County of *Cumberland*, into a distinct and separate religious Society.

[This Act passed *March* 17, 1788.]

An ACT in Addition to an Act, entitled, "An Act in Addition to an Act, providing for the Payment of Costs in Criminal Suits."

[This Act passed *March* 18, 1788. Repealed.]

An ACT to prevent neglect in Sheriffs, Selectmen and Town-Clerks, respectively, in not calling and presiding at Town-Meetings, receiving and returning the Votes for Governor, Lieutenant-Governor, Senators and Counsellors, as is pointed out by the Constitution of this Commonwealth.

[This Act passed *March* 18, 1788. Repealed *Feb.* 24, 1796.]

An ACT for incorporating a Congregational Society in the Town of *New-Salem*, and for repealing an Act heretofore made for that Purpose.

[This Act passed *March* 18, 1788.]

An ACT in Addition to and for explaining an Act passed in the Year of our LORD One thousand seven hundred and eighty-seven, entitled, "An Act for regulating the Proceedings on Probate Bonds in the Courts of Common Laws; and directing their Form in the Supreme Court of Probate."

[This Act passed *March* 18, 1788. Repealed *June* 20, 1788.]

An

An ACT for incorporating the Plantation of *New-Worceſter*, ſo called, or No. 9, in the County of *Lincoln*, into a Town by the Name of *Orrington*.

[This Act paſſed *March* 21, 1788.]

An ACT to revive an Act, entitled, "An Act granting certain Privileges to the Proprietors of the Slitting-Mill in the Town of *Taunton*, in the County of *Briſtol*.

[This Act paſſed *March* 21, 1788.]

An ACT to incorporate the Inhabitants of a Plantation known by the Name of *Weſt-Bowdoinham*, in the County of *Lincoln*, into a Town by the Name of *Bowdoin*.

[This Act paſſed *March* 21, 1788.]

An ACT to annex certain Land hereafter deſcribed, to the Town of *Cummington*.

[This Act paſſed *March* 21, 1788.]

An ACT for ſetting off *Nathaniel Kingsbury*, an Inhabitant of the firſt Pariſh in *Dedham*, in the County of *Suffolk*, and annexing him and his Eſtate, to the third Pariſh in the ſaid *Dedham*.

[This Act paſſed *March* 21, 1788.]

An ACT to prevent the Slave-Trade, and for granting Relief to the Families of ſuch unhappy Perſons as may be kidnapped or decoyed away from this Commonwealth.

WHEREAS by the African trade for ſlaves, the lives and liberties of many innocent perſons have been, from time to time, ſacrificed to the luſt of gain: And whereas ſome perſons reſiding in this Commonwealth may be ſo regardleſs of the rights of human kind, as to be concerned in that unrighteous commerce: Preamble.

SECT.

No person to import, transport, buy or sell any Africans as slaves.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That no citizen of this Commonwealth, or other person residing within the same, shall for himself, or any other person whatsoever, either as master, factor, supercargo, owner or hirer, in whole or in part, of any vessel, directly or indirectly, import or transport, or buy or sell, or receive on board, his or their vessel, with intent to cause to be imported or transported, any of the inhabitants of any state or kingdom, in that part of the world called *Africa*, as slaves, or as servants for term of years; and that every citizen, inhabitant or resident, as aforesaid, who shall, directly or indirectly, receive on board his or their vessel, with intent to import or transport, or cause to be imported or transported, any of the said inhabitants of *Africa*, contrary to the true intent and meaning of this Act, and be thereof lawfully convict, shall forfeit and pay the sum of *Fifty Pounds*, for every person by him or them so received on board, with intent to be imported or transported; and the sum of *Two Hundred Pounds*, for every vessel fitted out with intent to, and that actually shall be employed in the importation or transportation aforesaid, to be recovered by action of debt, in any Court within this Commonwealth, proper to try the same; the one moiety thereof to the use of this Commonwealth, and the other moiety to the person who shall prosecute for and recover the same.

Penalty.

Penalty for fitting out vessels for such purposes.

Insurance on said vessels, void.

SECT. 2. *And it is further enacted by the authority aforesaid,* That all insurance which shall be made within this State, on any vessel fitted out with intention as aforesaid, and having on board slaves in order to be transported from *Africa*, as aforesaid, or upon any slaves so shipped on board of any vessel for transportation, shall be void, and of no effect; and this Act may be given in evidence under the general issue, in any suit or action commenced for the recovery of insurance so made.

Inhabitants carried off.

And whereas divers peaceable inhabitants of this Commonwealth, or residents therein, have been privately carried off by force, or decoyed away under various pretences, by evil-minded persons, and with a probable intention of being sold as slaves without the same: and although sufficient provision is made for public justice, in such case, by the common law, and an Act, entitled, "An Act establishing the right to, and the form of the writ *De Homine Replegiando*," yet no provision is made for bringing actions for damages by the friends or families of any inhabitant who may be so carried off, or decoyed away, during his or her life-time:

When inhabitants are carried off, actions of damage may be brought by their friends.

SECT. 3. *Be it therefore further enacted by the authority aforesaid,* That when any inhabitant, or resident of this Commonwealth, shall be so carried off, or decoyed away, it shall be lawful for any friend of such injured inhabitant or resident, to bring forward and prosecute to final judgment and execution, before any

Court

Court of law proper to try the same, any action for damages against any person concerned in decoying or carrying off such inhabitant or resident, in the name of such inhabitant or resident, and in the same manner, and to the same effect, as if thereunto fully authorized by letter of attorney from such inhabitant or resident for that purpose.

Provided nevertheless, Such friend, prosecuting as aforesaid, shall first give to the Judge of Probate for the county wherein such injured party last dwelt, good and sufficient bond, with sureties to the satisfaction of such Judge of Probate, conditioned that such prosecutor shall pay the monies that he may recover in damages, as aforesaid, to the said injured party, on his or her return to this Commonwealth, if that shall happen by the time when such execution is satisfied: and if not, shall apply such monies to the use and maintenance of the wife, children or family of the injured party, in proportion, at such periods, and in such way and manner as the said Judge shall decree best for the interest of such wife, children, or family, in the absence of such injured party: Provided bonds are given.

SECT. 4. *Provided also, and be it further enacted*, That in case the defendant, who shall be prosecuted as is provided in and by this Act, shall be acquitted by the Court before whom the trial may be, the said Court shall not only render up judgment for legal costs, but for such reasonable damages as the said defendant hath sustained by such prosecution: Proviso, in case the defendant is acquitted.

Provided also, That this Act do not extend to vessels which have already sailed, their owners, factors, or commanders, for and during their present voyage, or to any insurance that shall have been made, previous to the passing of the same.

[This Act passed *March* 26, 1788.]

An ACT for altering a certain Clause in an Act, entitled, "An Act to prevent the Destruction of Salmon, Shad, and Alewives and other Fish, in *Agawam* or *Westfield River*."

[This Act passed *March* 26, 1788.]

An ACT in Addition to an Act passed *March* the sixteenth, in the Year of our LORD One thousand seven hundred and eighty-six, entitled, "An Act for the Choice and Appointment of Collectors of Rates and Taxes, and for ascertaining their Power and Duty."

WHEREAS it often happens that persons taxed in public and other assessments abscond, not having paid their rates Preamble.

rates and taxes, by which means the ſaid taxes are frequently loſt, and no proviſion being made in the ſaid Act for remedy thereof,

Enacting clauſe.

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That when any perſon duly taxed in any aſſeſſment as aforeſaid, hath abſconded or ſhall hereafter abſcond, not having paid their rates and taxes, and hath concealed or ſhall conceal his goods and eſtates; in every ſuch caſe, the Collectors, and Conſtables to whom the ſaid rates and taxes are committed to collect, ſhall have like remedy againſt their agents, factors or truſtees, for the recovery of the ſame, as by the laws of this Commonwealth other creditors have for the recovery of their debts.

[This Act paſſed *March* 26, 1788.]

An ACT in Addition to an Act paſſed *July* ſecond, One thouſand ſeven hundred and eighty-five, entitled, "An Act for repealing a Law of this Commonwealth, entitled, "An Act impoſing Duties on licenſed Vellum, Parchment and Paper, and for impoſing other Duties on certain Papers, Commiſſions, Inſtruments and Proceſſes."

[This Act paſſed *March* 26, 1788.]

An ACT in Addition to, and in Explanation of an Act, entitled, "An Act to incorporate the South Pariſh of the Town of *Bolton*, together with *David Taylor*, *Silas Carley*, *Job Spafford* and *John Brigham*, Inhabitants of *Marlborough*, with their Eſtates, into a Diſtrict by the Name of *Berlin*."

[This Act paſſed *March* 26, 1788.]

An ACT for reviving and continuing in Force two Laws of this Commonwealth; one paſſed in the Year of our LORD One thouſand ſeven hundred and eighty-ſix, entitled, "An Act for ſuſpending the Laws for the Collection of private Debts, under certain Limitations;" the other paſſed in the Year of our LORD One thouſand ſeven hundred and eighty-ſeven, entitled, "An Act for the Continuance of, and in Addition to an Act, entitled, "An Act for ſuſpending the Laws for the collecting of private Debts, under certain Limitations."

[This Act paſſed *March* 26, 1788.]

An

An ACT for suppressing and punishing of Rogues, Vagabonds, common Beggars, and other idle, disorderly and lewd Persons. Addit. Act, Feb. 27, 1798.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That there shall be erected, built or otherwise provided by the Court of General Sessions of the Peace, in every county within this Commonwealth, at the charge of such county, a fit and convenient house or houses of correction (where such house is not already provided) with convenient accommodations thereunto adjoining and belonging; to be used and employed, for the keeping, correcting and setting to work of rogues, vagabonds, common beggars, and other idle, disorderly and lewd persons. House of correction to be built in every county.

And until such house or houses of correction be erected, built, or otherwise provided, the common prison in each county may be made use of for that purpose. Until built, prisons to be made use of.

SECT. 2. *And be it further enacted by the authority aforesaid*, That the Court of General Sessions of the Peace in each county may nominate and appoint, at their will and pleasure, a suitable person to be master of such house of correction. And also to make, ordain and establish such rules and orders as may be necessary (not repugnant to the laws of this Commonwealth) for the ruling, governing and punishing of such persons as may be there committed; and such rules and orders by them made, shall be in force and put in execution. And any Justice of the Peace, as well as the Court of Sessions, may send and commit unto the said house, to be kept and governed according to the rules and orders thereof, all rogues, vagabonds and idle persons, going about in any town or place in the county, begging; or persons using any subtle craft, juggling or unlawful games or plays, or feigning themselves to have knowledge in physiognomy, palmistry, or pretending that they can tell destinies or fortunes, or discover where lost or stolen goods may be found; common pipers, fiddlers, runaways, stubborn servants or children, common drunkards, common night-walkers, pilferers, wanton and lascivious persons in speech, conduct or behaviour; common railers or brawlers, such as neglect their callings or employment, mispend what they earn, and do not provide for themselves or the support of their families, upon conviction of any of the offences or disorders aforesaid, complaint thereof having been made in writing. Masters of such houses to be appointed. Rules and orders for governing such houses. Who are to be committed to such houses, and by whom.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the master of such house of correction to be appointed as aforesaid, shall have power and authority, and shall set all such rogues, vagabonds, beggars, and other lewd, idle and disorderly persons as aforesaid, that shall be duly sent or committed unto his custody, to work and labour (if they be able) for such time Power and authority of such masters.

How punished when disorderly, &c.

time as they shall continue and remain in the said house; and to punish them by putting shackles or fetters upon them; and also from time to time, in case they be stubborn, disorderly, idle or refractory, and do not perform their tasks, and in good condition, according as they shall be reasonably stinted, or to abridge them of their food, as the case shall require, until they be reduced to better order.

Selectmen to provide materials for keeping such persons at work.

Sect. 4. *And be it further enacted by the authority aforesaid*, That when any person shall be committed to the said house, the Selectmen of the town to which he or she belongs (if within the Government) shall, at the town's expense, provide suitable materials, and such as shall be convenient and necessary, to keep the person thus committed to work during his or her continuing there, and deliver the same to the master or keeper of the house for that purpose. And when any stubborn children or servants, under the immediate care and government of parents or masters, shall be committed to the said house, the parent or master (if able) shall take care and provide such things as may be necessary to keep him or her to work and labour during his or her abode in the said house. And the persons committed shall be allowed two third parts only of what they earn, and the residue shall be to the use of the master or keeper of the house; unless such persons are masters or heads of families, then the whole profit of their labour, or so much thereof as the Court of Sessions shall order, shall be for the relief and support of such persons and their families. And if any person, committed as aforesaid, shall be unable to work, or be weak and sick, or the profits of whose work shall not be sufficient for supporting him or her, then to be comfortably provided for and taken care of by the master of the same house, who shall be reimbursed the same by the parent, master, town, or the Government, who are by law obliged to maintain and support such persons when unable to support themselves, as the case may require.

Parents and masters to provide materials for their children and servants.

Appropriation of their earnings.

When sick or unable to work.

Masters of such houses shall have a reasonable allowance for their service, &c.

Sect. 5. *And be it further enacted by the authority aforesaid*, That the master of the said house of correction shall, for his care, labour and service in looking after the several persons that shall from time to time be committed to his care and custody, over and above one third part of their net earnings, have such reasonable allowance made him as the Justices in Session shall order and direct to be paid him by the parent or master of such as are under their immediate care and custody, otherwise by the town to which such persons belong, if within this Government; or at the charge of the Government, if they belong to no particular town within it. And the master or keeper of every such house shall keep an exact account of all profits and earnings that shall arise from the labour of all such as shall be committed unto his care and custody, as well as the particular time of their commitment and liberation, and present the same account

count (upon oath, if required) unto the Juſtices of the Peace for the ſame county, annually, and alſo whenever he ſhall by them be thereunto directed, and in default thereof may be amerced by the ſaid Juſtices in their ſeſſions, not exceeding *One Hundred Pounds*.

Proviſo, when any perſon ſhall apply for a diſcharge from ſuch houſe.

Provided nevertheleſs, That whenever any perſon, committed as aforeſaid, ſhall apply to the maſter of the ſaid houſe for a diſcharge therefrom, the ſaid maſter ſhall ſignify the ſame to the Overſeers of the Poor of the town in which ſuch houſe of correction ſhall be, or to the Overſeers of the Poor of ſuch town as the perſon ſo committed ſhall belong to, and the major part of either of the Overſeers of the Poor, aforeſaid, upon its being made to appear to them that the ends of ſuch commitment have been anſwered, are hereby empowered to iſſue their order to the maſter of ſuch houſe of correction to diſcharge the ſaid perſon from his or her ſaid confinement, the charges ariſing therefrom being firſt paid in manner as is herein before provided, and the ſaid maſter is hereby required to diſcharge him or her accordingly.

No African or Negro, not a citizen of one of the United States, ſhall be ſuffered to tarry within this Commonwealth.

SECT. 6. *Be it further enacted by the authority aforeſaid*, That no perſon, being an African or Negro, other than a ſubject of the Emperor of *Morocco*, or a citizen of ſome one of the United States (to be evidenced by a certificate from the Secretary of the State of which he ſhall be a citizen) ſhall tarry within this Commonwealth for a longer time than two months; and, upon complaint made to any Juſtice of the Peace within this Commonwealth, that any ſuch perſon has been within the ſame more than two months, the ſaid Juſtice ſhall order the ſaid perſon to depart out of this Commonwealth; and in caſe that the ſaid African or Negro ſhall not depart, as aforeſaid, any Juſtice of the Peace within this Commonwealth, upon complaint and proof made that ſuch perſon has continued within this Commonwealth ten days after notice given him or her to depart as aforeſaid, ſhall commit the ſaid perſon to any houſe of correction within the county, there to be kept to hard labour agreeably to the rules and orders of the ſaid houſe, until the Seſſions of the Peace, next to be holden within and for the ſaid county; and the maſter of the ſaid houſe of correction is hereby required and directed to tranſmit an atteſted copy of the warrant of commitment to the ſaid Court on the firſt day of their ſaid ſeſſion; and if, upon trial at the ſaid Court, it ſhall be made to appear that the ſaid perſon has thus continued within the Commonwealth contrary to the tenor of this Act, he or ſhe ſhall be whipped not exceeding ten ſtripes, and ordered to depart out of this Commonwealth within ten days; and if he or ſhe ſhall not ſo depart, the ſame proceſs ſhall be had and puniſhment inflicted, and ſo *toties quoties*.

In caſe they do not depart.

Puniſhment.

[This Act paſſed *March* 26, 1788.]

An

An ACT for dividing the County of *Lincoln* into three Diſtricts, and for eſtabliſhing a Regiſtry of Deeds and Court of Probate in the Middle Diſtrict.

[This Act paſſed *March* 27, 1788.]

An ACT for apportioning and aſſeſſing a Tax of *Sixty-Five Thouſand Pounds, Four Shillings*, to anſwer the Exigencies of Government; and alſo *Thirteen Thouſand Two Hundred and Sixty-Two Pounds and One Shilling*, to replace the ſame Sum, drawn out of the Treaſury to pay the Members of the Houſe of Repreſentatives for their Attendance the ſeven laſt Seſſions of the General Court; alſo a further Sum of *Thirty Pounds*, ſet to the Town of *Bowdoin*, and the Sum of *Ninety-Four Pounds, Fifteen Shillings and Ten Pence*, ſet on the Lands of the Heirs and Aſſigns of the late Brigadier *Waldo*.

[This Act paſſed *March* 27, 1788.]

An ACT in Addition to an Act, entitled, "An Act in Addition to an Act paſſed in the Year of our Lord One thouſand ſeven hundred and eighty-three, entitled, "An Act to regulate the Catching of Salmon, Shad and Alewives, and to remove and prevent Obſtructions in *Merrimack-River*, and in the other Rivers and Streams running into the ſame, within this Commonwealth, and for repealing ſeveral Acts heretofore made for that Purpoſe."

[This Act paſſed *March* 28, 1788.]

An ACT to prevent the Deſtruction of Alewives and other Fiſh in *Ipſwich-River*, and to encourage the Increaſe of the ſame.

[This Act paſſed *March* 28, 1788.]

An ACT in Addition to an Act, entitled, "An Act for rendering Proceſſes in Law leſs expenſive."

[This Act paſſed *March* 28, 1788. Repealed *Feb.* 14, 1789.]

An

An ACT for the Preſervation of the Salt Marſhes in that Part of the Town of *Dorcheſter*, in the County of *Suffolk*, known by the Name of *Squantum*.

[This Act paſſed *March* 29, 1788.]

An ACT to ſet off a certain Point of Land, adjoining to *Topſham*, now known by the Name of *Patten's-Point*, from the Town of *Bowdoinham*, and annexing the ſame to the Town of *Topſham*.

[This Act paſſed *March* 29, 1788.]

An ACT repealing a certain Paragraph of an Act, paſſed in the Year of our LORD One thouſand ſeven hundred and eighty-three, entitled, "An Act in Addition to the ſeveral Acts of this Commonwealth, already made, for the Preſervation of the Fiſh called Alewives, and for the better regulating the River called *Wewewantett*, in the County of *Plymouth*, and for making an Addition to the ſaid Act."

[This Act paſſed *March* 29, 1788.]

An ACT in Addition to, and for the amending of an Act, entitled, "An Act to raiſe a public Revenue by Exciſes."

[This Act paſſed *March* 31, 1788.]

An Act to prevent the Exportation of green or unmanufactured Calf-Skins, out of this Commonwealth, by Land or Water.

Preamble.

WHEREAS the exporting of green or unmanufactured calf-ſkins will occaſion a ſcarcity thereof, and be attended with diſagreeable conſequences to the Commonwealth: For preventing thereof,

Penalty for exporting green or unmanufactured calf ſkins.

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That from and after the paſſing this Act, no green or unmanufactured calf-ſkins ſhall be exported out of the limits of this Commonwealth, by land or water; and if the owner or owners of any green or unmanufactured calf-ſkins, or other perſon or perſons, employed by him or them, ſhall lade or put on board of any veſſel or float, bound out of this Commonwealth, any green or unmanufactured calf-ſkins; or if any maſter of any

any ship or vessel, or other officer or mariner, shall receive on board any green or unmanufactured calf-skins, as aforesaid, the person or persons so offending shall incur the penalty of *Six Shillings* for each and every green or unmanufactured calf-skin, so shipped or attempted to be shipped; to be sued for and recovered in any Court within this Commonwealth, proper to try the same; and every such green or unmanufactured calf-skin, laded on board of any vessel as aforesaid, shall be forfeited. And it shall and may be lawful for any Justice of the Peace, upon information given of any green or unmanufactured calf-skins, being put on board any ship or other vessel, with intent to export the same as aforesaid, to issue his warrant, directed to the Sheriff or his deputy, or any constable, requiring them respectively, to make seizure of any such green or unmanufactured calf-skins, laded for exportation as aforesaid, to secure the same, in order for trial; and such officers are hereby respectively empowered and required to execute the same; and every officer of impost and excise, and every naval officer, and their respective deputies, are hereby severally empowered, on information given by any person or persons, to seize and secure any green or unmanufactured calf-skins, laded as aforesaid, for trial; and the fines or forfeitures incurred by a breach of this Act, shall be one moiety thereof to the person or persons who may give information, sue for and recover the same, and the other moiety to and for the use of this Commonwealth.

Fines and forfeitures, how disposed of.

[This Act passed *March* 31, 1788.]

An Act for annexing Fees to certain Papers in the Secretary's Office, and for making an Appropriation thereof.

Preamble.

WHEREAS it is found necessary that some certain provision should be made for the pay of the Secretary, and the Clerks in his Office:

Part of a former Act repealed.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That so much of an Act passed the first day of *March*, one thousand seven hundred and eighty-seven, as relates to the fees established for the Secretary's Office, be, and it is hereby repealed.

SECT. 2. *And be it further enacted by the authority aforesaid,* That in future the following shall be the established fees to be paid into the Secretary's Office.

Established fees.

For all copies for the benefit of individuals, at the rate of *One Shilling* for each hundred words.

For copies of resolves and orders of the General Court or of the Governor and Council, of a private or local nature, *Three Shillings*. For

For an Act for the benefit of individuals, companies or corporate bodies (except societies for the promotion of arts and sciences, agriculture and manufactures, religion and charitable purposes) *Twelve Shillings.*

For every act for the incorporation of a town, district, precinct or parish, excepting the incorporation of plantations, to be paid by the agent applying therefor, *Six Shillings.*

For every commission of sewers, *Six Shillings.*

For every register of a vessel, *Six Shillings.*

For every warrant for a Branch Pilot, *Six Shillings.*

For every impression of the seal of the State, with a certificate on private papers, *Twelve Shillings.*

For every pass or letter of recommendation for persons or vessels bound to foreign parts, *Twelve Shillings.*

For every notification of the Secretary for an appointment of inspectors, assay-masters or surveyors of tobacco, flax-seed, pot-ash, pearl-ash, loaf-sugar, beef, pork, fish and butter, *Six Shillings.*

For every notification of the Secretary of an appointment to the office of Comptroller-General, *Thirty Shillings.*

For every notification of the Secretary of an appointment to the office of Collector of Impost and Excise, *Twenty Shillings.*

For every notification of the Secretary of an appointment of Naval-Officer, *Twelve Shillings.*

Provided that the persons notified as aforesaid, shall accept their respective trusts.

For every commission to the office of Coroner, *Six Shillings.*

For every commission to the office of justice of the Peace, of the quorum, and through the Commonwealth, *Nine Shillings.*

For every commission of a letter of marque and repriſal, *Twenty-Four Shillings.*

For every act of naturalization of a foreigner, otherwise than a husbandman, mechanic or common labourer, *Six Pounds.*

Secretary to keep an account of fees, and pay the same into the treasury, &c.

To lay an account before the General Court.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the Secretary shall receive, and keep an account of all the fees by him taken in virtue of this Act, and shall pay the same quarterly into the treasury of this Commonwealth; and the said Secretary's proportion of a quarterly payment of the salary allowed him, and also the proportion that may be due to the several Clerks in the said Secretary's Office, shall be paid out of the same, in discharge of the warrants respectively drawn in their favour: And a fair account of the whole fees received, with the names of the persons paying the same, shall be annually laid before the General Court.

[This Act passed *March* 31, 1788.]

An ACT in Addition to an Act, entitled, "An Act to prevent the Deſtruction of the Fiſh called Shad and Alewives, in their Paſſage up the Rivers and Streams in the Town of *Rehoboth*, in the County of *Briſtol*."

[This Act paſſed *June* 9, 1788.]

An ACT for the better Regulation of the Indian, Mulatto and Negro Proprietors in *Marſhpee*, in the County of *Barnſtable*.

Preamble.

WHEREAS it appears neceſſary that there ſhould be made a further regulation of the Indian, Mulatto and Negro proprietors in *Marſhpee*, in the county of *Barnſtable*, than is already provided by law,

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That there be three proper perſons appointed, near to the Indian Plantation in *Marſhpee*, in the county of *Barnſtable*, guardians to the Indian, Mulatto and Negro proprietors of ſaid *Marſhpee*, who are hereby empowered to take into their hands the ſaid Indian, Mulatto and Negro lands, and allot to the ſeveral Indian, Mulatto and Negro proprietors of ſaid lands, ſuch parts of ſaid lands and meadows as ſhall be ſufficient for their particular improvement, from time to time, during the continuance of this Act: And the remainder, if any there be, ſhall be let out by the ſaid guardians, to ſuitable perſons, for a term not exceeding the continuance of this Act; and ſuch part of the income thereof as is neceſſary, ſhall be applied for the ſupport of ſuch of the ſaid proprietors as may be ſick or unable to ſupport themſelves, and the ſurpluſage thereof (if any there be) ſhall be diſtributed amongſt them, according to their reſpective rights or intereſt, for providing neceſſaries for themſelves and families, and for the payment of their juſt debts, at the diſcretion of their ſaid guardians; and that the reſpective guardians aforeſaid, or the major part of them, be hereby empowered and enabled, in their own names and in their capacities as guardians, to bring forward and maintain any action or actions for any treſpaſs or treſpaſſes, that may be committed on the ſaid lands, or any action of ejectment againſt any perſon or perſons, who may illegally enter into the poſſeſſion of ſaid lands: and that any liberty or pretended liberty obtained from any Indian, Mulatto or Negro proprietor, for cutting off any timber, wood or hay, milking pine trees, carrying off any ore or grain, or planting or improving ſaid lands, ſhall not be any bar to ſaid guardians in their ſaid action or actions:

Three proper perſons to be choſen as guardians.

Guardians empowered.

Provided,

Provided, That nothing in this Act shall be understood to bar any person or persons from letting creatures run upon the said lands that are unimproved, and lie in common and contiguous to other towns or proprietors. Proviso.

SECT. 2. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, no Indian, Mulatto or Negro proprietor of said lands, in his or her right, or in right of another, shall sell or lease out any of his or her lands, without the consent of the said guardians, or a major part of them; and all sales or leases of said lands, for any term or terms of years that shall, at any time hereafter during the continuance of this Act, be made by any Indian or Indians, Mulattoes or Negroes, shall be utterly void and of none effect; unless the same be made by and with the consent of the guardians, as aforesaid, or the major part of them. Sales or leases of lands, without the consent of the guardians, shall be void.

SECT. 3. *And be it further enacted by the authority aforesaid*, That no action shall be brought against any of the Indian, Mulatto or Negro proprietors of said lands, for any debt hereafter to be by them contracted, with any person or persons, for any sum whatsoever, unless the same be first examined and allowed by the said guardians, or a major part of them. Guardians to examine actions brought against proprietors.

SECT. 4. *And be it further enacted by the authority aforesaid*, That no Indian, Mulatto or Negro proprietor of said lands, shall bind out his or her children, to any person or persons whatsoever, by indenture or in any other way, without the approbation of the said guardians, or a major part of them, and that every indenture, or any instrument, in writing, whatsoever, or parole agreement, whereby such child or children shall be bound out contrary to the true intent and meaning of this Act, shall be adjudged null and void. To approbate the binding out of children.

SECT. 5. *And be it further enacted*, That if any of said Indian, Mulatto or Negro proprietors shall be committed to gaol for debt, he or they shall have the same benefit from an Act, entitled, "An Act for the relief of poor prisoners who are committed by executions for debt," as any white person by law now hath who hath no estate, he, she or they being proprietors of the aforesaid lands notwithstanding, and the oath shall be varied accordingly. Proprietors who shall be committed to gaol, entitled to the benefits of a certain Act.

SECT. 6. *And be it further enacted*, That the said guardians, or the major part of them, are hereby authorized and empowered to perambulate the bounds of the aforesaid lands, with such towns as are adjoining. Guardians empowered to perambulate.

SECT. 7. *And be it further enacted by the authority aforesaid*, That the said guardians shall keep a fair account of their proceedings, relative to the trust in them reposed by this Act, to be by them laid before the General Court, from year to year; and each of the said guardians, before he proceeds to perform the duties hereby devolved on him, shall give bond to the To keep a fair account of their proceedings, &c.

Treasurer of this Commonwealth in the sum of *Four Hundred Pounds*, for the faithful performance of his trust.

Former leases shall remain & be in full force.

SECT. 8. *And be it further enacted*, That nothing in this Act shall be understood to defeat any lease or leases heretofore made by the Overseers of the said Indians and Mulattoes, agreeably to an Act, entitled, "An Act for incorporating the Indian and Mulatto inhabitants of *Marshpee*, with their lands there, into a district with certain privileges, and for their better regulation," but all such leases, so made, shall remain and be in full force for the full term of time for which they were made, any thing in this Act to the contrary notwithstanding.

Guardians empowered to commence and prosecute actions.

SECT. 9. *And be it further enacted*, That the said guardians, which are or may hereafter be appointed to carry this Act into execution, or the major part of them, are hereby authorized to commence and prosecute to final judgment and execution, any action or suit against any person or persons who may withhold or detain the property of any of the aforesaid Indian, Mulatto or Negro proprietors, and also to defend any action or suit that may hereafter be commenced against them or any of them.

Guardians appointed.

SECT. 10. *And be it further enacted by the authority aforesaid*, That the Reverend *Gideon Hawley*, of said *Marshpee*, and Messieurs *John Persival* and *Reuben Fisk*, both of *Barnstable*, shall be guardians over the said Indian, Mulatto and Negro proprietors.

Whereas by experience it has been found, that the Act, entitled, "An Act for incorporating the Indians and Mulattoes, inhabitants of *Marshpee*, with their lands there, into a district, with certain privileges, and for their better regulation," made and passed in the thirteenth year of the reign of George the Third, hath not answered the good purposes therein designed:

Former Act repealed.

SECT. 11. *Be it therefore further enacted by the authority aforesaid*, That the Act aforesaid be and it is hereby repealed, and every clause and paragraph therein, except so far as it may respect any actions already commenced, or offences committed.

Limitation.

This Act to continue and be in force, for the term of ten years from the passing thereof, and no longer.

[This Act passed *June* 13, 1788.]

An ACT for setting off a certain Tract of Land belonging to the Town of *Belchertown*, in the County of *Hampshire*, and for annexing the same to the Town of *Pelham*.

[This Act passed *June* 16, 1788.]

An

An ACT in Addition to an Act, entitled, "An Act for incorporating a Number of the Inhabitants of the Town of *Amherſt*, in the County of *Hampſhire*, into a ſeparate Pariſh by the Name of *The Second Pariſh in the Town of Amherſt*."

[This Act paſſed *June* 17, 1788.]

An ACT for dividing the County of *Berkſhire* into three Diſtricts, for the Purpoſe of chooſing Regiſters of Deeds in the ſaid Diſtricts.

Preamble.

WHEREAS a great part of the inhabitants of the county of *Berkſhire*, by reaſon of their diſtance from the place where the office of Regiſter of Deeds, by the laws now in being, is directed to be kept, are ſubjected to great inconvenience in procuring their conveyances of real eſtate to be recorded: For remedy whereof in future,

Lenox and other towns, conſtituted a diſtrict for the regiſtry of deeds.

Authorized to chooſe a Regiſter.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the towns of *Lenox*, *Pittsfield*, *Richmond*, *Stockbridge*, *Lee*, *Tyringham*, *Becket*, *Waſhington* and *Partridgefield*, and ſuch gores or tracts of land unincorporated, as may lie between any of the ſaid towns, be and they hereby are conſtituted a diſtrict for the regiſtry of deeds; and the inhabitants of the ſaid towns and diſtricts are hereby authorized to chooſe a Regiſter of Deeds for the ſaid diſtrict, in the manner provided by law; and the Regiſter, ſo choſen, ſhall keep his office within the ſaid town of *Lenox*; and *Jahleel Woodbridge*, Eſq. of *Stockbridge*, is hereby authorized and empowered to iſſue his warrants, directed to the Selectmen of the ſeveral towns aforeſaid, ordering them forthwith to convene the inhabitants of their reſpective towns, qualified to vote for Repreſentatives, that they may proceed to the choice of ſome meet perſon, qualified by law for the office of a Regiſter of Deeds, and ordering the Selectmen to ſeal up and tranſmit a tranſcript of the record of the number of votes, and of the perſon or perſons voted for, in their reſpective towns, together with the ſaid warrants, to the Court of General Seſſions of the Peace next to be holden at *Lenox*, within and for the county of *Berkſhire*, on the ſecond Tueſday of *September* next, to be opened and compared with the like returns from other towns in ſuch diſtrict; and the perſon having the majority of votes, after being ſworn, and giving bond as by law directed, ſhall be the Regiſter of Deeds in the ſaid diſtrict, and ſhall continue in ſaid office until the laſt day of *March*, one thouſand ſeven hundred and ninety-one, and until another is choſen.

Jahleel Woodbridge, Eſq. to iſſue his warrants for calling meetings.

SECT.

Towns & plantations which lie north, constituted a separate district.

SECT. 2. *Be it further enacted*, That the towns, plantations, and all other lands in said county of *Berkshire*, which lie north of the towns above enumerated, be and they hereby are constituted a separate district for the registry of deeds; and the inhabitants of the said towns, plantations, and other lands, are hereby authorized to choose a Register of Deeds for the said district, in the manner provided by law; and the Register so chosen, shall keep his office in the town of *Lanesborough*, within the said district; and *William Towner*, Esq. of *Williamstown*, within the said district, is hereby authorized to issue his warrant to the Selectmen of the several towns, and to some principal inhabitant of each of the plantations in said district, in manner and returnable as aforesaid, and the votes being opened and compared in the said Court of General Sessions of the Peace, the person having a majority of votes, after being sworn and giving bond as aforesaid, shall continue in the said office until the last day of *March* above mentioned, and until another is chosen; and if it shall appear that no person has a majority of votes in the said districts, or either of them, the same proceedings shall be had as are directed, by law, in other cases of vacancy, in the office of Register of Deeds.

William Towner, Esq. to issue his warrant for calling meetings.

Persons chosen shall be subject to the rules and disqualifications of other Registers, &c.

SECT. 3. *And be it further enacted*, That the persons chosen as aforesaid, shall be subject to the rules and disqualifications to which Registers of Deeds for the several counties are subject; and from and after the first day of *January* next, shall be fully authorized to register and record all deeds, or other conveyances of lands or other real estate, lying within the district for which they are respectively chosen; and the record of any deed, or other conveyance of lands or other real estate, which after the first day of *January* next shall be made by any other than the persons chosen and qualified as aforesaid, for the said districts respectively, shall be void and of no effect; and the Registers to be chosen as aforesaid, shall be entitled to the same fees, in the execution of their respective offices, as Registers of Deeds in the several counties are entitled to.

Towns & plantations which lie south, shall be a separate district.

SECT. 4. *And be it further enacted*, That the towns, districts, plantations and lands in the said county of *Berkshire*, which lie south of the towns above enumerated, shall be a separate district for the registry of deeds, in which district the office of Register shall be kept in the town of *Great-Barrington*: And nothing in this Act shall be taken in any manner to affect the choice of the present Register of Deeds for the said county, so far as it respects the district last aforesaid.

Deeds and conveyances shall be removed to the Register's office in *Lenox*.

SECT. 5. *And be it further enacted*, That all the records of deeds and other conveyances of lands in said county, which have been made or shall be made before the first day of *January* next, shall be removed and deposited in the Register's office, herein provided for, in the said town of *Lenox*, to be kept by the Register aforesaid, for the first mentioned district.

[This Act passed *June* 18, 1788.]

An ACT to incorporate the Plantation called *Lewiſtown*, in the County of *Lincoln*, into a Town by the Name of *Greene*.

[This Act paſſed *June* 18, 1788.]

An ACT to prevent the Deſtruction, and regulate and limit the Catching of Fiſh in the Rivers and Streams in the Town of *Weſtport*, in the County of *Briſtol*.

[This Act paſſed *June* 18, 1788.]

An ACT to incorporate a Plantation, in the County of *Lincoln*, known by the Name of *Fairfield*, into a Town by the Name of *Fairfield*.

[This Act paſſed *June* 18, 1788.]

An ACT for incorporating certain Tracts of Land, in the County of *Lincoln*, with the Inhabitants thereon, into a Town by the Name of *Canaan*.

[This Act paſſed *June* 18, 1788.]

An ACT to incorporate a Plantation known by the Name of *Norridgewock*, in the County of *Lincoln*, into a ſeparate Town by the Name of *Norridgewock*.

[This Act paſſed *June* 18, 1788.]

An ACT empowering the Juſtices of the Supreme Judicial Court to grant Writs of Review, in certain Caſes.

Addit. Act, June 18, 1791.

WHEREAS the Juſtices of the Supreme Judicial Court are by law empowered, in certain caſes, to ſet aſide verdicts and grant new trials; but are not empowered by law to ſet aſide judgments, when rendered on ſuch verdicts;—and foraſmuch as the ſaid Juſtices have no power to ſet aſide ſuch judgments, many inconveniencies have happened, and may hereafter happen, unleſs ſome remedy be provided: Preamble.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That wherever there hath been or hereafter may be any legal cauſe for the ſaid Juſtices, before judgment, to ſet aſide any verdict, but nevertheleſs, judgment hath been or hereafter may be Juſtices of the Supreme Judicial Court empowered to grant reviews in certain caſes.

be rendered on such verdict, the party aggrieved by such judgment (and not otherwise entitled to a review of the cause) may petition the Justices of the aforesaid Court, at any of their terms, for a review of such cause; and the said Justices, on due notice to the adverse party, and full consideration of such petition, are hereby empowered (if they see fit) to grant a review of the said cause, on such terms and conditions as to them may seem just and reasonable between the said parties.

And whereas by reason of accident, mistake, or some unforeseen cause, judgments have been and hereafter may be rendered in the said Court, on discontinuance, non-suit, *nil dicit*, *non sum informatus*, report of referees, or default, and suits have been and hereafter may be discontinued without judgment, to the hindrance or subversion of justice: Wherefore,

Whenever, by reason of accident or mistake, judgment hath been or hereafter may be rendered, &c. Justices empowered to grant a review of the action.

SECT. 2. *Be it further enacted by the authority aforesaid*, That whenever, by reason of any accident, mistake, or any unforeseen cause, judgment hath been or hereafter may be rendered on discontinuance, non-suit, *nil dicit*, *non sum informatus*, report of referees, or default, or suits have been or hereafter may be discontinued without judgment, to the hindrance or subversion of justice; the said Justices, on petition as aforesaid, are further empowered to grant a review of the action in manner as aforesaid.

And whereas similar cases do happen in the Courts of Common Pleas, and before Justices of the Peace:

When similar cases happen in the Courts of Common Pleas or before Justices of the Peace, writs of review may be granted.

SECT. 3. *Be it therefore enacted by the authority aforesaid*, That wherever, by reason of any of the causes mentioned in the last enacting clause, any judgment in the said Court of Common Pleas, or before any Justice of the Peace, hath been or hereafter may be rendered in manner as in the same clause is mentioned; or any appeal hath been or hereafter may be prevented or lost, to the hindrance or subversion of justice, as aforesaid; and the party aggrieved shall produce in and file with the Clerk of the Supreme Judicial Court, a copy of record of the cause, duly attested, and shall petition the Justices of the same Court for a review of the cause, in manner as aforesaid, the said Justices may grant a review of the said cause, in manner aforesaid, to be heard and determined in the said Supreme Judicial Court.

Proviso.

Provided always, That no petition for review shall be sustained after one year and six months from the time of rendering judgment in the action, and only one review shall ever be granted in any action, by virtue of this Act.

Writs of review, how sued out, &c.

SECT. 4. *And be it further enacted by the authority aforesaid*, That whenever a review is granted by virtue of this Act, a writ of review shall be sued out and prosecuted to final judgment and execution, in the same manner as is provided in other actions of review.

SECT.

SECT. 5. *Be it further enacted by the authority aforesaid*, That the Justices aforesaid, to whom any petition shall be preferred in manner aforesaid, are further empowered to stay execution in the cause, on such conditions as are before mentioned; and whenever the same Justices shall adjudge, that the petitioner shall take nothing by his petition, they are also empowered to award the respondent his reasonable costs, and execution may be sued out accordingly. Justices empowered to stay executions.

[This Act passed *June* 18, 1788.]

An ACT for the Ease of the Citizens concerning Actions upon Penal Statutes.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That all actions, suits, bills or informations, which shall hereafter be had, brought, sued or commenced, for any forfeiture upon any penal statute, made or to be made, the benefit whereof is or shall be by the said statute limited in whole or in part to the person or persons who shall inform and prosecute in that behalf, shall be had, brought, sued or commenced, by any person that may lawfully pursue the same, as aforesaid, within one year next after the offence committed, or to be committed, against the said statute; and in default of such pursuit, then the same shall be had, brought or prosecuted for the Commonwealth, at any time within two years after the offence committed; and if any action, suit, indictment or information, for any offence against any penal statute, shall be brought after the time in that behalf limited, the same shall be void and of none effect, any Act to the contrary notwithstanding. Actions, suits, &c. which shall hereafter be commenced for any forfeiture upon any penal statute, shall be brought within one year after the offence committed, &c.

Provided always, That when any action, suit or information, is or shall be limited by any penal statute, to be had, sued, commenced or brought within a shorter time than is above mentioned, in every such case, the action, suit or information, shall be brought within the time limited by such statute. Proviso.

Provided also, That this Act, or any clause contained therein, shall not extend to any action, suit, indictment or information, which shall hereafter be had, brought, sued or commenced, for offences heretofore committed by any person or persons, against any Act or Acts for restraining the taking of excessive usury, if the person or persons who may be sued or prosecuted therefor, have, for the space of one year from the passing this Act, refused or neglected to make restitution of the full amount of the excessive usury by him or them so heretofore taken or received, and the lawful interest thereof, from the time the same was taken, to the person or persons, his or their executors or administrators, or to his or their lawful agents or attornies, from Further proviso.

from whom such excessive usury has been taken or received as aforesaid, if by them thereunto required, in person, at any time within the said year, or by writing left at his or their last and usual place of abode, fourteen days at least before the expiration of the said year; the cost of travel to make such request, to be paid by the person or persons guilty of taking the excessive usury; but in all such cases, the action, suit, indictment or information, had, sued and commenced, for the offences aforesaid, shall and may be sustained and prosecuted to final judgment, any thing in this Act to the contrary notwithstanding: *Provided,* The same be commenced within two years after the passing this Act, and not otherwise.

When informations are exhibited, or actions commenced, the offence shall be laid and alleged to have been committed in the county where the same was in truth committed, &c.

SECT. 2. *And be it further enacted by the authority aforesaid,* That in all informations to be exhibited, and in all actions or suits to be commenced against any person or persons, on the behalf of any informer, or on the behalf of the Commonwealth, and any informer, for or concerning any offence committed or to be committed against any penal statute, the offence shall be laid and alleged to have been committed in the county where such offence was in truth committed, and not elsewhere; and if the defendant, in any such information, action or suit, pleadeth that he owes nothing, or that he is not guilty, and the plaintiff or informer in such information, action or suit, upon evidence to the jury that shall try such issue, shall not both prove the offence laid, in the said information, action or suit, and that the same offence was committed in that county, the issue shall be found for the defendant or defendants.

Defendants may plead the general issue, &c.

SECT. 3. *And be it further enacted by the authority aforesaid,* That if any information, suit or action, shall be brought or exhibited against any person or persons, for any offence committed or to be committed against the form of any penal law, on behalf of any informer, or on behalf of the Commonwealth and any informer, it shall be lawful for such defendants to plead the general issue, and give any special matter in evidence to the jury, which shall be as available to him or them, as if he or they had sufficiently pleaded the same matter in bar, or discharge of such information, suit or action.

Proviso.

Provided always, That this Act, or any clause contained therein, shall not extend to any information, suit or action, grounded upon any law or statute, concerning the concealing or defrauding the Commonwealth of any customs, duties, impost or excises.

[This Act passed *June* 19, 1788.]

An ACT in Addition to the several Acts for raising a Public Revenue by Excises.

[This Act passed *June* 19, 1788.]

An

An ACT for preventing the Deſtruction of Alewives in the Town of *Wellfleet*, and regulating the Fiſhery of them in the ſaid Town.

[This Act paſſed *June* 19, 1788.]

An ACT for naturalizing *William Menzies*, and others, therein named.

[This Act paſſed *June* 19, 1788.]

An ACT to prevent Fraud and Perjury.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by authority of the ſame*, That no action ſhall be brought whereby to charge an executor or adminiſtrator, upon any ſpecial promiſe, to anſwer damages out of his own eſtate; or whereby to charge the defendant, upon any ſpecial promiſe, to anſwer for the debt, default or miſdoings of another perſon, or to charge any perſon upon any agreement made upon conſideration of marriage, or upon any agreement that is not to be performed within the ſpace of one year from the making thereof, unleſs the agreement upon which ſuch action ſhall be brought, or ſome memorandum, or note thereof, ſhall be in writing, and ſigned by the party to be charged therewith, or ſome other perſon thereunto by him lawfully authorized.

No action ſhall be brought againſt any perſon, upon any ſpecial promiſe, &c. unleſs the agreement ſhall be in writing, and ſigned by the party.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That no contract for the ſale of any goods, wares or merchandize, for the price of *Ten Pounds* or more, ſhall be allowed to be good, except the purchaſer ſhall accept part of the goods ſo ſold, and actually receive the ſame, or give ſomething in earneſt to bind the bargain, or in part payment, or that ſome note or memorandum in writing of the ſaid bargain, be made and ſigned by the parties to be charged by ſuch contract, or their agents thereunto lawfully authorized.

No contract for the ſale of goods ſhall be allowed to be good, except the purchaſer ſhall accept a part of ſuch goods, &c. *Mar.* 10, 1784.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That whenever a debtor in execution, having goods, effects or credits, to the amount of *Ten Pounds* or more, (that are unattachable by the common and ordinary proceſs of law) ſhall ſpend or uſe the ſame, or ſo much thereof, for his ſubſiſtence, as ſhall amount to the ſum upon which he is committed in execution, without giving the creditor, his agent, factor or attorney, notice where and of what kind they are, and enabling him, if he thinks proper, to accept the ſame, or ſuch part of them as will amount to the debt for which he is in execution, in ſatisfaction thereof, ſuch neglect ſhall be eſteemed and taken as a fraudulent tranſaction in the debtor; and every perſon who ſhall knowingly aid and aſſiſt a debtor in ſuch fraudulent tranſaction,

Clauſe reſpecting fraudulent tranſactions of debtors in execution.

tranſaction, ſhall be anſwerable and chargeable to the creditor, to double the full value of the money, goods or effects, by him or them thus ſecreted, ſpent or embezzled, in a ſpecial action on the caſe.

When a judgment-creditor ſhall diſcover goods, &c. of his debtor that are unattachable; proviſion in ſuch caſes.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That whenever a judgment-creditor ſhall diſcover goods, effects or credits of his debtor, that are unattachable by the common and ordinary proceſs of law, he ſhall be entitled to the proceſs provided in the Act made to enable creditors to receive their juſt debts out of the effects of their abſent or abſconding debtors; and upon the agent, factor or truſtee's being ſummoned in the manner the ſaid Act directs, all the money, goods, effects and credits in his hands, ſhall be ſecured to reſpond the judgment that may be given thereon, and he ſhall anſwer thereunto, at the firſt term, in caſe his principal has perſonal or other ſufficient and legal notice of the ſuit, fourteen days before the Court's ſitting.

Proviſo.

Provided always, That upon a judgment-creditor's purſuing ſuch remedy to recover his debt, he ſhall, within ſeven days after the ſame proceſs on the ſuppoſed agent is ſerved, diſcharge the body of the debtor (in caſe he is taken in execution upon the ſame judgment) by a note or memorandum, in writing, directed and delivered to the officer who has him in cuſtody, ſtating the reaſon and occaſion of the diſcharge of the perſon of the debtor; and ſuch a diſcharge ſhall not vacate, annul, or in any manner injure the original judgment; but in caſe the judgment-creditor ſhall not within the ſeven days diſcharge the perſon of the debtor, in manner aforeſaid, the proceſs commenced as aforeſaid, ſhall abate, and the debtor ſhall recover treble coſts.

[This Act paſſed *June* 19, 1788.]

An ACT in Addition to an Act, entitled, "An Act to bring into the Public Treaſury the Sum of *One Hundred and Sixty-Three Thouſand and Two Hundred Pounds*, in Public Securities, by a Sale of a Part of the Eaſtern Lands, and to eſtabliſh a Lottery for that Purpoſe."

Preamble.

WHEREAS ſome of the proprietors of the prize-lots drawn in the lottery aforeſaid, have repreſented, that their ſaid lots are ſcattered over a great extent of territory, belonging to the Commonwealth, and are deſirous of exchanging the ſame with the Commonwealth, in ſuch manner that their lots may lie together: And whereas it is for the intereſt of the Commonwealth, that their requeſt ſhould be granted: Therefore,

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That

That upon application of any number of proprietors who have drawn, or are entitled to prize-lots, as aforesaid, equal to the contents of a townſhip, to the committee on the ſubject of unappropriated lands in the counties of *York*, *Cumberland* and *Lincoln*, for either of the townſhips within and upon the borders of the tract appropriated to the ſaid lottery, they ſhall be entitled to receive a deed of the ſame; reſerving, however, the lots appropriated to public uſes in ſuch townſhip; and alſo reſerving the lots therein, which are drawn by adventurers, to the perſons who drew them, or to their heirs or aſſigns, agreeably to the plan in the Secretary's office; alſo reſerving to any ſettler on the ſaid lands, or perſon who may have actually made improvements thereon, previous to the paſſing of this Act, a right to purchaſe the ſame of this Commonwealth, at any time within twelve months from the date hereof; the reſidue of ſuch townſhip to be divided in ſuch manner as the ſaid aſſociators or adventurers may agree upon.

Proprietors of prize-lots allowed to exchange the ſame with the Commonwealth, &c.

Provided however, That application to the committee aforeſaid, be made within ſix months from the paſſing this Act, and that the ſaid adventurers bear the expenſe of cauſing the ſaid townſhip ſo applied for to be ſurveyed under the inſpection of the ſaid committee.

Proviſo.

SECT. 2. *And be it further enacted*, That, upon the execution of a deed by the committee, as aforeſaid, to the adventurers applying therefor, as aforeſaid, and their endorſing the tickets entitling them to ſuch prize-lots, and releaſing the ſame to the Commonwealth, the title to ſuch prize-lots, for which ſuch townſhip ſhall be exchanged, as aforeſaid, ſhall be vacated and become void; and the ſame ſhall be reveſted in, and enure to the Commonwealth, as fully, to all intents and purpoſes, as if the ſame had not been granted to, or drawn by ſuch adventurers.

Title of ſuch prize-lots to be reveſted in the Commonwealth.

[This Act paſſed *June* 20, 1788.]

An ACT to prevent the Deſtruction of Salmon and Shad in *Connecticut-River*.

[This Act paſſed *June* 20, 1788.]

An ACT to confirm the Doings of Juſtices of the Peace whoſe Commiſſions have expired, or may hereafter expire and be again renewed.

WHEREAS by the Conſtitution of this Commonwealth, the commiſſions of Juſtices of the Peace expire at the end of ſeven years; and whereas it has heretofore happened, and may hereafter ſo happen, that much buſineſs which has been or may be begun by them, in the execution of the duties of

Preamble.

of their office, and the business so begun by them has not been or may not be completed and carried into full execution before the expiration of the said term of their commissions; and as doubts have arisen, whether such actions, doings and proceedings, can survive and remain valid after the expiration of the term of such former commissions, and be again re-assumed and proceeded upon, after such commissions have or shall be renewed:

Proceedings of Justices confirmed and rendered valid.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That all such actions, doings and proceedings of Justices of the Peace within this Commonwealth, which have been re-assumed and carried into execution since the renewal of their said commissions, be and they hereby are confirmed and rendered valid, to all legal intents, as fully as if the commissions, under authority whereof they originated, had continued in force, until the final issue of such actions and proceedings aforesaid.

SECT. 2. *And be it further enacted by the authority aforesaid,* That all Justices of the Peace, as aforesaid, before whom actions may be commenced under former commissions, and such commissions have or shall expire before judgment has been or shall be rendered thereon, or judgment being rendered, the same remains in whole or in part unsatisfied, such Justices of the Peace, who have heretofore or shall hereafter have their said commissions seasonably renewed, and being duly qualified agreeably to the Constitution of this Commonwealth, to act under such commissions, be and they hereby are authorized and empowered to render judgment and issue execution on all such actions, commenced as aforesaid, in the same manner as if the commissions under which such actions were or may be commenced, were in full force.

[This Act passed *June* 20, 1788.]

An ACT in Addition to the Act, "for regulating the Proceedings on Probate Bonds in the Courts of common Law, and directing their Form in the Supreme Court of Probate."

Preamble.

WHEREAS in and by the last section of the said Act it is enacted, "That when judgment shall be rendered upon any probate bond, against the obligors, their executors or administrators, and the party or parties against whom such judgment shall be rendered, shall by law be entitled to a review thereof, execution shall be suspended or stayed in such counties as have but one Supreme Judicial Court annually, for the space of six calendar months, to commence on the day of rendering the judgment; and in such counties as have two Supreme Judicial Courts annually, execution shall be suspended until the next

next term or ſitting thereof in the ſame county, to the end the ſaid obligors, their executors or adminiſtrators may (if they ſee cauſe) review the ſame."—By reaſon of which, all attachments of real or perſonal property, on the original writ for bringing forward ſuch ſuits, are rendered uſeleſs and ineffectual for ſatisfying the judgments that may be given therein:

When judgment upon any probate bond ſhall be hereafter rendered, the party or parties may ſue out execution, &c.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That it ſhall and may be lawful for the party or parties, for whoſe uſe and benefit a judgment upon any probate bond may be hereafter rendered (as ſoon as twenty-four hours ſhall be expired after the judgment ſhall be entered up) to ſue out execution thereupon, any thing in the ſaid recited ſection to the contrary notwithſtanding: *Provided*, The perſon or perſons ſueing out the ſame execution ſhall give bond to the party or parties againſt whom the ſame ſhall iſſue (and file the bond in Court for his or their uſe) in double the ſum named in the execution, with ſurety or ſureties, to the acceptance of the Court, with condition to refund and pay to him or them whatever ſum or ſums ſhall be received or levied by virtue thereof, more than ſufficient to ſatisfy the final judgment that may be given in his or their favour upon a writ of review, that may be commenced thereupon within the time by law limited for ſuch review: And if, at the time of rendering the final judgment on the review, it ſhall appear to the Court that the party or parties ſueing out execution, as aforeſaid, have received or levied thereon a larger ſum than the final judgment, it ſhall and may be lawful for the ſame Court, and they are hereby authorized and empowered to enter up judgment in favour of the obligee, for the reſtitution thereof, and thereupon to iſſue execution for the ſame againſt the ſaid obligors (or ſo many of them as ſhall be then living) in as full and ample a manner as though a ſuit was commenced and proſecuted on the ſame bond.

When ſuits ſhall hereafter be brought on any probate bond; what proceedings ſhall be had, &c.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That when any ſuit ſhall hereafter be brought on a probate bond, and the principal obligor named in the bond is living and reſident within the Government, and ſhall not be named in the writ, or, if named, ſhall not be attached or ſummoned to anſwer thereunto, it ſhall and may be lawful for the Court, at the requeſt of the ſurety or ſureties that may be attached or ſummoned thereby, to continue the ſame cauſe to the next term, or to ſome diſtant day in the ſame term, if, upon a conſideration of the circumſtances attending the ſuit, they ſhall determine ſuch continuance reaſonable or expedient; to the end ſuch ſurety or ſureties may purchaſe out a writ, in ſuch form as the ſame Court ſhall direct, for attaching the property, ſecuring the perſon or ſummoning the principal to come in and become a party to the ſuit; and in caſe the principal (after being attached or ſummoned upon ſuch proceſs fourteen days, or more,

prior

prior to the time of his being directed to appear and answer) shall not appear and answer, the Court are hereby authorized and empowered to render judgment against him in the same way and manner they might have done, had such principal been duly named and legally summoned by the original writ which commenced the suit, and he had neglected to appear, or, appearing, had neglected to make answer thereto.

Former Act repealed.

SECT. 3. *And be it further enacted by the authority aforesaid*, That a law made and passed the eighteenth day of *March*, one thousand seven hundred and eighty-eight, entitled, "An Act in addition to, and for explaining an Act passed in the year one thousand seven hundred and eighty-seven, entitled, "An Act for regulating the proceedings on probate bonds in the Courts of common law, and directing their form in the Supreme Court of Probate," be and hereby is repealed.

[This Act passed *June* 20, 1788.]

An ACT for incorporating a Number of the Inhabitants of the Town of *Groton*, in the County of *Middlesex*, of the Presbyterian Denomination, into a separate Parish.

[This Act passed *November* 19, 1788.]

An ACT to incorporate the Plantation known by the Name of *Walpole*, in the County of *Lincoln*, into a Town by the Name of *Nobleborough*.

[This Act passed *November* 20, 1788.]

An ACT for confirming to *Nathaniel Gorham* and *Oliver Phelps*, Esquires, a certain Tract of Land, pursuant to a Contract made with them for that Purpose.

[This Act passed *November* 21, 1788.]

An ACT for granting a Lottery for the Purpose of purchasing an Orrery, made by *Joseph Pope*, for the Use and Benefit of the University at *Cambridge*.

[This Act passed *November* 21, 1788.]

An ACT for naturalizing *Elisha Bourn*, and others, therein named.

[This Act passed *November* 21, 1788.]

An

An ACT to continue an Act passed in the Year of our LORD One thousand seven hundred and eighty-six, entitled, "An Act for rendering Processes in Law less expensive," and the several subsequent Acts in Addition thereto.

[This Act passed *November* 22, 1788.]

An ACT in Addition to, and for repealing and amending a certain Part of an Act passed the twenty-first Day of *March*, One thousand seven hundred and eighty-eight, entitled, "An Act for incorporating the Plantation of *New-Worcester*, so called, or No. 9, in the County of *Lincoln*, into a Town by the Name of *Orrington*."

[This Act passed *November* 22, 1788.]

An ACT for setting off *Isaac Moffit*, and others, from the Town of *Charlton*, in the County of *Worcester*, and annexing them to the Town of *Oxford*, in the same County.

[This Act passed *January* 5, 1789.]

An ACT to regulate the Trial of Seizures of Goods and Merchandize, for Breach of the Laws of Impost and Excise.

[This Act passed *January* 5, 1789.]

An ACT for erecting Work-Houses for the Reception and Employment of the Idle and Indigent.

WHEREAS erecting houses for the employment of idle persons, who neglect and refuse to exercise any lawful calling or business to support themselves and families, and for the poor and indigent, that want means to employ themselves, may be useful to the public, and especially to such towns, as shall be concerned in such an undertaking: Preamble.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That when any town, in this Commonwealth, shall see meet to erect or provide a house, for the purpose before named, such town shall be, and hereby is fully authorized and Any one town may erect or provide a work house.

Empowered to choose Overseers.

empowered thus to do; and the towns aforesaid, as well as those who have already erected such houses, are hereby empowered, at their annual meeting for the choice of town officers, to choose three, five, seven, or more Overseers of the said house, who shall have the inspection and government thereof, with full power of appointing a master, and needful assistants, for the more immediate care and oversight of the persons received into, or employed in the said house: which Overseers, once in every month, and at other times as occasion shall require, shall assemble together for the purpose of determining the most eligible method of discharging the duties of their office: And at their stated monthly meetings, shall have power to make needful orders and regulations for such house; which orders shall be binding until the next public meeting of the inhabitants of such town, to whom such orders shall be presented for approbation; and when by them approved, shall be obligatory, until revoked by the town.

Overseers to make needful orders and regulations.

Any number of towns that shall agree to erect a work-house, are vested with power thus to do.

SECT. 2. *And be it further enacted by the authority aforesaid*, That when any number of towns shall agree (at their joint charge, and for their common benefit) to erect or provide a work-house for the employment of persons residing in such towns, that are indigent or idle, or to purchase land whereon to erect such house, or for the accommodation thereof, they shall be and hereby are vested with power and authority thus to do; and the ordering and governing the same, making the necessary repairs thereof, appointing a master and other assistants, and the power of removing him or them from their respective offices or trusts, for irregular behaviour, incapacity, or for other sufficient cause, shall be vested in Overseers, to be from year to year specially chosen by the several towns, at their annual meeting for the choice of town officers, each town to choose three, unless all the towns engaged in the undertaking shall agree upon a different number: And in case of the death of an Overseer, or his removal from the town for which he was appointed, the vacancy made thereby may be supplied by such town, at any other public meeting: And if any town concerned shall neglect to choose such Overseers, in such case the person or persons chosen in the other towns may proceed in all affairs of the said house, any such neglect notwithstanding.

Overseers to be annually appointed.

Times & places for holding stated meetings of the Overseers.

SECT. 3. *And be it further enacted by the authority aforesaid*, That there shall be stated quarterly meetings of all the Overseers, on the first Tuesday of the months of *January*, *April*, *July* and *October*, annually, to be held at the work-house, in order to inspect the management, and for directing the business thereof; and besides those stated meetings, intermediate ones, to be held at the work-house, may be called by the Overseers of any town concerned; due notice of the time and occasion thereof being given to the rest, in such way and manner

ner as ſhall be agreed upon by the Overſeers, at any general ſtated meeting: And the ſaid Overſeers, when duly aſſembled, may chooſe a Moderator; and at their firſt general meeting annually, after their appointment, they ſhall likewiſe chooſe a Clerk, to enter and record all votes and orders that ſhall be made and paſſed by the Overſeers, who ſhall be ſworn to the faithful diſcharge of his truſt.

Overſeers empowered, when aſſembled, to chooſe a Moderator, &c.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That the Overſeers, for the time being, at a general quarterly meeting, provided one half, at the leaſt, of the whole number choſen are preſent, ſhall have full power and authority to make all reaſonable orders and by-laws, not repugnant to the laws of this Commonwealth, for the ordering and regulating the ſaid houſe, and the affairs thereof; which orders and by-laws ſhall continue and be in force until altered, annulled or reverſed by them or their ſucceſſors in office, and may likewiſe agree with the maſter or other aſſiſtants, and order meet allowance for their care and ſervice: and all other matters of leſs importance, relating to the ſaid houſe, may be tranſacted at any other meeting duly notified, when only one third part of the Overſeers are preſent, ſubject nevertheleſs to be altered or reverſed, at any general ſtated meeting.

Empowered to make all reaſonable orders and by-laws.

To make allowance to the maſter or aſſiſtants, &c.

SECT. 5. *And be it further enacted by the authority aforeſaid*, That the yearly ſtipend, or allowance, to the maſter and aſſiſtants, over and above what is provided for by this Act, for their care and trouble, together with the charge of keeping the houſe in repair, ſhall be paid by the ſeveral towns concerned, in proportion as they are taxed to the Government, at the time the expenſe is incurred, or in ſuch other proportion as all the towns concerned ſhall agree upon: And if any town or towns ſhall refuſe or neglect to advance, or reimburſe their reſpective proportions of ſuch allowance, or other charges beforementioned, after they ſhall have been ſtated and adjuſted by the Overſeers, the ſame may be recovered of ſuch delinquent town or towns, in any Court proper to try the ſame, by action to be brought by ſuch perſon or perſons, as the Overſeers ſhall, in writing, appoint for that purpoſe.

Yearly ſtipend to the maſter and aſſiſtants; how paid.

SECT. 6. *And be it further enacted by the authority aforeſaid*, That any two or more of the Overſeers, in any town already provided with ſuch houſe, and any two or more of the Overſeers, in any town that, either by themſelves, or in conjunction with other towns, ſhall hereafter erect a work-houſe, be and they are hereby authorized, empowered and directed, to commit to ſuch houſe, by writing, under the hands of the ſaid Overſeers, to be employed and governed according to the rules and orders of the houſe, any perſon or perſons, reſiding in ſuch town, that are in this Act declared liable to be ſent thither: *Provided*, That no greater number of perſons belong-

Overſeers empowered to commit to the work houſe ſuch perſons as are by this Act declared liable.

Proviſo.

ing to any town, be received into the house, than such town's proportion of the said house to be allotted them, can accommodate, when the receiving them will exclude or incommode such as belong to other towns; and an order of commitment from two or more Overseers, directed to a Constable of the same town, shall, by such Constable, be obeyed and executed.

Description of persons liable to be sent or employed in any work-house.

SECT. 7. *And be it further enacted by the authority aforesaid*, That the persons who shall be liable to be sent unto, employed and governed in any work-house erected or to be erected, by one or more towns, in pursuance of this Act, are, all poor and indigent persons that are maintained by, or receive alms from the town; also all persons able of body to work, and not having estate or means otherwise to maintain themselves, who refuse or neglect so to do, live a dissolute, vagrant life, and exercise no ordinary calling or lawful business, sufficient to gain an honest livelihood, and all such as, having some rateable estate, but not sufficient to qualify them to vote in town affairs, do neglect the due care and improvement thereof, and such as spend their time and property in public houses, to the neglect of their proper business; or by otherwise misspending what they earn, to the impoverishment of themselves and their families, are likely to become chargeable to the town, or to the Commonwealth.

Towns that neglect to provide materials, &c. shall be deprived of their privilege.

SECT. 8. *And be it further enacted by the authority aforesaid*, That if any town shall refuse or neglect to provide its proportion of the needful furniture for such house, or the materials, implements or other necessary apparatus for carrying on the work there to be performed, according to their agreement, or as shall be directed by the Overseers, such town shall be deprived of the privilege of sending any person thither, until they shall comply with such agreement or direction.

Towns to provide such other materials, &c. as the Overseers shall determine.

Master of such house shall receive such materials, and be accountable.

SECT. 9. *And be it further enacted by the authority aforesaid*, That besides the aforesaid proportion of materials and other things to be found by the towns concerned, each town may likewise provide such other materials and tools for work, as the Overseers for such town shall determine, any person by them committed to the said house, can be employed about, more advantageously: And the master of the house shall receive such materials and tools, and keep them separate and apart from those sent from any other town, and shall be accountable to the Overseers of each town concerned, as well for the prime cost, as for all profits and earnings that shall be made by the labour of those, belonging to such town, under his care, and shall keep a register of the names of the persons committed to such work-house, and of the towns to which they respectively belong, with the time of their being received into, and discharged therefrom, and of their earnings, that the same may appear to any of the Overseers, whenever they

shall

ſhall incline to inſpect them: And all controverſies between the maſter or keeper of ſuch houſe, and the Overſeers of any town, touching his accounts or other his affairs whatever, reſpecting the work-houſe, may be determined by the Overſeers of the houſe, at a general or quarterly meeting.

Controverſies between the maſter of ſuch houſe and the Overſeers, how determined.

SECT. 10. *And be it further enacted by the authority aforeſaid*, That no town ſhall be chargeable for the relief or ſupport of any perſon committed to the ſaid houſe, who was not ſent thither by the Overſeers belonging to ſuch town, nor ſhall any perſon orderly committed to the ſaid houſe, be diſcharged therefrom, but by the Overſeers that made the commitment, or by the Overſeers at a general or quarterly meeting, or otherwiſe by the Court of Common Pleas in the ſame county, upon application to them made for that purpoſe: And every perſon thus committed, if fit and able to work, ſhall be kept diligently employed in labour, during his or her continuance there: And in caſe the perſon ſo committed, ſhall be idle and not perform ſuch reaſonable taſk or ſtint as ſhall be aſſigned, or ſhall be ſtubborn and diſorderly, they ſhall be puniſhed according to the orders that ſhall be made for ruling, governing and puniſhing the perſons there committed, not repugnant to the laws of the Government.

No town ſhall be chargeable for the ſupport of any perſon not ſent by the Overſeers.

Perſons committed, to be kept diligently employed.

Puniſhment for being diſorderly.

And whereas it ſometimes happens, that ſuch idle or indigent perſons are foreigners, and have not gained a legal inhabitancy in any particular town, but are the proper charge of the Commonwealth:

SECT. 11. *Be it further enacted by the authority aforeſaid*, That when any foreigner or other perſon, not a legal inhabitant of any town within this Commonwealth, ſhall become idle or indigent, it ſhall be the duty of the Overſeers of the town in which ſuch perſon reſides, or any two of them, to commit ſuch idle or indigent perſon to the work-houſe belonging to the ſame town, or in which ſuch town is intereſted; and the perſon or perſons ſo committed, ſhall be under the care of the keeper of ſuch houſe, and be employed, if capable of labour, in the ſame way and manner as is herein before directed, and ſhall be ſubject to the ſame rules and regulations as others committed to ſaid houſe. And ſuch Overſeers ſhall keep a fair account of the charge of ſupporting ſuch idle or indigent perſon from time to time, and ſhall exhibit the ſame once in every year, at the leaſt, to the General Court, for allowance and payment, deducting therefrom the amount of ſuch perſon's earnings.

Clauſe reſpecting idle or indigent perſons who are foreigners and not legal inhabitants of any town,

SECT. 12. *And be it further enacted by the authority aforeſaid*, That one third part of the profits or earnings of the work, done by the perſons detained in ſuch houſe, ſhall be to the maſter, for, and towards his ſupport, over and above ſuch further annual ſtipend as the Overſeers may allow him: And the prime

Profits or earnings of the work, how applied, &c.

prime ſtock, together with the other two thirds of the profits, ſhall be diſpoſed of by the Overſeers of the reſpective towns, to whom it belongs, either to the maſter towards his ſervices, or for the ſupport of the families of the perſons there detained, if any ſuch they have, or otherwiſe for the uſe of ſuch town, as occaſion ſhall require.

Any work-houſe may be diſcontinued.

SECT. 13. *And be it further enacted by the authority aforeſaid*, That any work-houſe erected or provided as aforeſaid, may be diſcontinued or applied to any other uſe, whenever the town or towns concerned ſhall find their circumſtances require it, and ſhall agree thus to do.

Proviſo, reſpecting the town of *Boſton*.

Provided nevertheleſs, That nothing herein contained ſhall be underſtood to abridge the town of *Boſton*, or the Overſeers of the Poor thereof, of any privilege or power reſpecting a work-houſe, granted unto them, by a law paſſed in the year one thouſand ſeven hundred hundred and thirty-five; but the ſame law, entitled, "An Act for employing and providing for the poor of the town of *Boſton*," and every clauſe thereof, is hereby eſtabliſhed, ratified and confirmed:

Proviſo, reſpecting the town of *Salem*.

Provided alſo, That nothing herein contained ſhall be ſo conſtrued as to abridge the town of *Salem*, or the Overſeers of the Poor thereof, of any privilege or power granted unto them by an Act paſſed the twenty-ſixth day of *January*, one thouſand ſeven hundred and ſeventy-three, entitled, "An Act for employing and providing for the poor of the town of *Salem*, and for the better regulating the work-houſe in ſaid town;" but the ſame, and all other Acts relative to work-houſes heretofore erected in any particular town, and every clauſe of ſuch Acts, are hereby eſtabliſhed, ratified and confirmed.

[This Act paſſed *January* 10, 1789.]

An ACT for incorporating the Townſhip Number Four, on the Eaſt Side of *Penobſcot-River*, commonly called *Naſkeeg*, in the County of *Lincoln*, into a Town by the Name of *Sedgwick*.

[This Act paſſed *January* 12, 1789.]

An ACT to ſet off *John Dickinſon*, and others, from the Town of *Hadley*, in the County of *Hampſhire*, and to annex them to the Town of *Amherſt*.

[This Act paſſed *January* 15, 1789.]

An

An ACT in Addition to an Act, entitled, "An Act repealing an Act paſſed in the Year of our LORD One thouſand ſeven hundred and eighty-three, entitled, "An Act for raiſing by Lottery the Sum of *Three Thouſand Pounds*, for the Purpoſe of building a Glaſs-Houſe, and promoting the Manufacture of Crown and other Glaſs in *Boſton*;" and for the Purpoſe of promoting the Manufacture of Crown and other Glaſs within this Commonwealth.

[This Act paſſed *January* 20, 1789.]

An ACT for incorporating certain Perſons, therein named, by the Name of *The Truſtees of the Grammar School in the Eaſterly Part of the Town of Roxbury*, and for repealing all the Laws heretofore made for that Purpoſe.

[This Act paſſed *January* 21, 1789.]

An ACT to ſet off to the Patentees, and other Purchaſers, certain Lands on the Iſland of *Chapequiddick*, in the County of *Dukes County*, and finally to adjuſt and determine all Diſputes between the ſaid Patentees and other Purchaſers, and the Indians on the ſaid Iſland, and to prevent Cattle, Horſes, Sheep, Goats and Swine from going at large on the ſaid Iſland at certain Seaſons of the Year.

[This Act paſſed *January* 26, 1789.]

An ACT to incorporate the Plantation known by the Name of *St. Georges*, in the County of *Lincoln*, into a Town by the Name of *Cuſhing*.

[This Act paſſed *January* 28, 1789.]

An ACT for incorporating *Long-Iſland* Plantation, with the Iſlands adjacent, in the County of *Lincoln*, into a Town by the Name of *Iſleborough*.

[This Act paſſed *January* 28, 1789.]

An

Addit. Acts, Mar. 4, 1790, June 22, 1793.

An ACT for the better regulating of the Indian, Mulatto and Negro Proprietors and Inhabitants of the Plantation called *Marſhpee*, in the County of *Barnſtable*.

Preamble.

WHEREAS the proviſions already made by law reſpecting the Indian, Mulatto and Negro proprietors and inhabitants of the plantation called *Marſhpee*, in the county of *Barnſtable*, are inſufficient to the well ordering and managing their affairs, and protecting them and their property againſt the arts and deſigns of thoſe who may, from time to time, be diſpoſed to take the advantage of their weakneſs:

A board of Overſeers to be eſtabliſhed.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That a Board of Overſeers ſhall be eſtabliſhed, conſiſting of five diſcreet and diſintereſted perſons (two of whom to be inhabitants of the county of *Barnſtable*, and the other three of the adjoining counties) and ſhall be appointed as is herein after directed; which Overſeers are hereby veſted with full power and authority to regulate the police of the ſaid plantation, to eſtabliſh rules and regulations for the well ordering and managing the affairs, intereſt and concerns of the ſaid Indian, and other proprietors and inhabitants, as well with reſpect to the improvement and leaſing out of their lands and tenements, regulating their ſtreams, ponds and fiſheries, perambulating their lines, and meting out lots for their particular improvement, as with reſpect to their bargains, contracts, wages and other dealings, and to take due care of their poor, and that their children be bound out to ſuitable perſons, of ſober life and converſation. And the ſaid Overſeers are empowered and directed to hold ſtated meetings, elect a Moderator, Secretary and Treaſurer, and may, if they judge it neceſſary, appoint ſome ſuitable perſon or perſons to act under their direction, as a guardian or guardians to the ſaid Indian and other proprietors, and to carry into execution their ſaid regulations and orders (which guardian or guardians ſhall give bonds to the ſaid Board of Overſeers, for the faithful diſcharge of their truſt, and to render in to the ſaid Overſeers, and ſettle their accounts once every year, and oftener, if required) and whenever the ſaid Board ſhall judge the continuance of the ſaid guardians in their ſaid truſt inexpedient or unneceſſary, they may remove them.

Their power and authority.

Stated meetings of the Overſeers directed to be held.

Overſeers and guardians veſted with power to demand and receive dues, &c.

SECT. 2. *And be it enacted*, That the ſaid Board of Overſeers, or the guardians whom they may appoint, are hereby veſted with power and authority to demand and receive any property, dues or wages, which now are or hereafter may be detained, withheld from, or juſtly owing to, ſaid proprietors, or any of them, by any perſon or perſons, and to inſti-

tute

tute and bring forward, in their own names and capacities, any action or actions for the recovery thereof, as likewise for any illegal entries, or treſpaſſes, which have been, or may be made or committed on their lands, tenements, fiſheries and other property; or for any fraud or injury done to them or any of them, and the ſame action or actions to purſue to final judgment and execution; and ſhall, at all times, have full power and authority to examine, adjuſt and ſettle all accounts and controverſies between them or any of them, and any white perſon or perſons, for voyages or other ſervices and tranſactions which remain unſettled, or which may hereafter be done or ariſe, as likewiſe to adjuſt and bring to a ſettlement all accounts and proceedings of any former Guardian, Truſtee or Overſeer, taking effectual care that juſtice be done therein; and may alſo bind, by indenture, the children of the poor of the ſaid proprietors to ſuitable perſons, of ſober life and converſation, as they, the ſaid Overſeers or Guardians, may judge neceſſary and convenient.

Overſeers empowered to ſettle all controverſies and accounts.

SECT. 3. *And be it further enacted*, That no leaſe, indenture, covenant, bond, bargain or contract, in writing, made by any of ſaid proprietors, ſhall be of any validity, unleſs it be made by, or under the direction of ſaid Board, Guardian or Guardians, or with their conſent and approbation; nor ſhall any action be brought againſt any of the ſaid proprietors upon any account, for goods ſold and delivered, ſervices done and performed, or for money had and received, to the uſe of another, unleſs ſuch account ſhall have been firſt examined by the ſaid Overſeers, Guardian or Guardians, and by them approved.

No leaſe, covenant or contract, ſhall be valid, unleſs made under the direction of the Overſeers or Guardians.

SECT. 4. *And be it further enacted*, That the ſaid Overſeers ſhall keep a fair and regular account of all their tranſactions, and of all the rents and profits ariſing from their the ſaid proprietors' lands, tenements and fiſheries, or otherwiſe, and of all money, wages or incomes, which they may receive from time to time belonging to the ſaid proprietors or any of them, and ſhall diſtribute to them their reſpective rights, dues and ſhares, after deducting the reaſonable expenſe of conducting their ſaid buſineſs, payment of their juſt debts, and (from the common profits) providing for the ſick and indigent, and reſerving, from time to time, ſuch ſum or ſums as can conveniently be ſpared, for the ſupport and continuance of religious inſtruction among them, and the ſchooling of their children; and they, the ſaid Overſeers, ſhall ſtate their accounts annually, and lay the ſame before the Governor and Council for approbation and allowance: And the Governor, with the advice of the Council, is hereby authorized and empowered to appoint ſuch Overſeers, and to fill up vacancies whenever by death, reſignation, removal out of the Commonwealth, or otherwiſe,

Overſeers to keep a fair and regular account of their tranſactions.

To ſtate their accounts annually, and lay the ſame before the Governor and Council.

erwiſe, they may happen ; to diſplace them, or any of them, for want of ability or integrity, or other reaſonable cauſe, and to audit their accounts.

No wood, timber or hay, ſhall be cut, under pretence of liberty from the proprietors.

SECT. 5. *And be it enacted*, That no liberty or pretended liberty, from the proprietors, or any of them, for cutting off any wood, timber or hay, milking pine-trees, carrying off any ore or grain, or for planting or improving any of ſaid lands or tenements, without the approbation of ſaid Overſeers, Guardian or Guardians, ſhall be any bar in any of their action or actions. Provided nothing herein ſhall be conſtrued to defeat any leaſe or indenture heretofore made agreeably to law. And the lands and tenements of ſaid proprietors ſhall not be liable to be taken in execution for debt. And if any of ſaid proprietors ſhall be committed in execution for debt, he, ſhe or they ſhall have the ſame benefit, from an Act, entitled, "An Act for the relief of poor priſoners who are committed by execution for debt," as any white perſon now hath, who has no eſtate, their being proprietors notwithſtanding, and the oath ſhall be varied accordingly.

Propsietors to have the benefit of an Act for the relief of priſoners committed for debt.

Former laws repealed.

SECT. 6. *And be it further enacted*, That all laws heretofore made reſpecting the ſaid *Marſhpee* Indians, be and hereby are repealed.

[This Act paſſed *January* 30, 1789.]

An ACT to incorporate a Plantation on the Eaſt Side of *Penobſcot-River*, in the County of *Lincoln*, called *Townſhip Number Five*, or *Blue-Hill Bay*, into a Town by the Name of *Blue-Hill*.

[This Act paſſed *January* 30, 1789.]

An ACT for incorporating *Deer-Iſland* Plantation, *Little Deer-Iſland*, and the Iſles of *Holt*, in the County of *Lincoln*, into a Town by the Name of *Deer-Iſle*.

[This Act paſſed *January* 30, 1789.]

An ACT to aſcertain the Boundary Line between *Templeton* and *Gerry*.

[This Act paſſed *January* 30, 1789.]

An ACT incorporating the Wardens and Veſtry of Chriſt Church (ſo called) in *Boſton*, for certain Purpoſes.

[This Act paſſed *January* 30, 1789.]

An

An ACT for incorporating certain Perſons by the Name of *The Proprietors of the Beverly Cotton Manufactory.* [This Act paſſed *February* 3, 1789.]

An ACT to prevent Damage by Horſes going at large.

Addit. Act, June 22, 1793.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That all Horſes and Horſe kind (of one year old and upwards) that ſhall be ſuffered to go at large, ſhall be conſtantly fettered with a ſufficient pair of fetters, from the fifteenth day of *April,* to the firſt day of *November;* and the owner of any ſuch Horſe, or Horſe kind, that ſhall be found going at large on the common, or ways, in any town in this Commonwealth, not being ſufficiently fettered, ſhall forfeit and pay the ſum of *Three Shillings,* to be recovered by action of debt, by the Field-Driver, or any other perſon who will ſue for the ſame, before a Juſtice of the Peace in the ſame county, one third part to the uſe of the poor of the town where ſuch owner dwells, and the other two thirds to the uſe of the proſecutor.

Horſes that ſhall be ſuffered to go at large, ſhall be kept conſtantly fettered.

SECT. 2. *And be it further enacted,* That when the owner of any Horſe kind, going at large, without being fettered, as this Act requires, is unknown; in ſuch caſe, the Field-Driver, or any other perſon, may impound them, and otherwiſe proceed with them as the law directs, in the caſe of ſtray beaſts: And when the owner appears to demand ſuch Horſe, he ſhall pay the *Three Shillings* forfeiture for each Horſe kind unlawfully at large, for the uſes aforeſaid, before delivery.

When the owner of any horſe kind going at large is unknown;—proceedings in ſuch caſes.

Provided always, That it ſhall be in the power of any town, at the annual meeting in *March* or *April,* by a vote thereof, to grant liberty for Horſes to go at large, without fetters, within the bounds of ſuch town, or in ſuch parts and diviſions thereof as the town ſhall determine moſt for the benefit of the inhabitants, between the ſaid fifteenth day of *April,* and the firſt day of *November;* in which caſe it ſhall be lawful for any perſon reſiding therein, to ſuffer his Horſe to go at large unfettered accordingly, without incurring the forfeiture aforeſaid: *Provided further,* That no Horſe of the male kind, being ungelded, and more than one year old, ſhall be permitted to go at large on the common or highways, with or without fetters; and the owner of any ſuch ungelded Horſe, ſo going at large, ſhall forfeit *Twenty Shillings,* to be recovered in the manner, and for the uſes herein before preſcribed.

Proviſo, that towns may grant liberty for horſes to go at large.

Further proviſo.

SECT. 3. *And be it further enacted by the authority aforeſaid,* That all laws heretofore made, permitting Horſes to go at large on the common, be and hereby are repealed.

Former laws repealed.

[This Act paſſed *February* 3, 1789.]

An ACT to prevent Damage being done on the Salt Marſhes in the Town of *Arundell*, in the County of *York*, by Horſes, Sheep and Cattle being ſuffered to run at large on certain Beaches, Flats and Necks of Land, adjoining ſaid Marſhes.

[This Act paſſed *February* 3, 1789.]

An ACT to ſet off *Jonathan Hardy* from the firſt Pariſh in the Town of *Bradford*, in the County of *Eſſex*, and to annex him to the ſecond Pariſh in ſaid Town. [This Act paſſed *February* 9, 1789.]

An ACT directing the Mode of proſecuting Writs of Review, after the Death of any or all of the Parties in the original Suit.

Preamble.

WHEREAS when judgment hath been recovered in any action, upon which a review is open and before ſuch writ is ſued out, or before judgment rendered therein, one or both of the parties may die, and doubts have ariſen whether the judgment in ſuch caſes is not final: For the clearing of which,

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,*

Mode of proſecuting writs of review, after the death of any or all of the parties, in any real action.

That when in any real action, the demandant ſhall recover judgment for his ſeizen, and poſſeſſion of the demanded tenements, and ſhall die within the term allowed by law to the defendant to review the ſame judgment, it ſhall be lawful for him within the ſaid term, to ſue out and proſecute his writ of review for the reverſal thereof, againſt the perſon in the actual poſſeſſion of ſuch tenements, or againſt him who hath right to hold the ſame under the demandant, in caſe the ſaid judgment ſhall not be reverſed, or both of them, at his election: And when in any ſuch real action as aforeſaid, judgment ſhall be rendered for the defendant for his coſts, and he ſhall die within the term allowed by law to the demandant to review the ſame judgment, it ſhall be lawful for him within the ſame term, to ſue out and proſecute his writ of review, for the reverſal thereof, againſt the perſon in the actual poſſeſſion of the demanded tenements, or againſt him who hath right to hold the ſame, under the original defendant, in caſe the ſaid judgment ſhall not be reverſed, or both of them, at his election. And when both the demandant and defendant, or either of them, ſhall die after judgment rendered in the original ſuit, it

ſhall

ſhall be lawful for the heirs at law, of the party againſt whom judgment ſhall have been rendered in ſuch ſuit, or for any other perſon having a right under ſuch party to the ſeizen and poſſeſſion of the demanded tenements, in caſe the laſt judgment ſhall be reverſed within the term allowed by law, to ſue out and proſecute their writ of review, for the reverſal thereof, in manner and form as aforeſaid, or againſt the party who recovered in the original ſuit, if living: And in the ſeveral caſes mentioned in this enacting clauſe, the ſame proceedings and judgment ſhall be had, *mutatis mutandis*, as would have been had between the original demandant and defendant, if they had been in full life, and the writ of review had been pending between them.

Mode of proſecuting writs of review, after the death of the parties, in any perſonal action.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That when judgment ſhall be recovered in any perſonal action, and one or both of the original parties ſhall die within the term allowed by law, to review the ſame judgment, no writ of review being pending between them, it ſhall be lawful, either for the ſurviving party, or for the Executors or Adminiſtrators of the deceaſed party or parties, where both of them ſhall die as aforeſaid, within the ſame term, to ſue out and proſecute a writ of review, for the reverſal of the ſame judgment: And the ſame proceedings and judgment ſhall be had therein, *mutatis mutandis*, as would have been had between the original parties.

When a writ of review is pending, whether in a real or perſonal action, and either of the parties ſhall die, what proceedings ſhall be had.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That if, pending a writ of review between the original parties, whether in a real or perſonal action, either of them ſhall die, his death ſhall, at the requeſt of the Attorney for either party, be entered upon the records of the Court, and the cauſe ſhall thereupon be continued, to the end, the heirs at law of ſuch deceaſed party, or other perſon intereſted in the tenements in queſtion, as aforeſaid, or his Executors or Adminiſtrators, as the caſe may be, may come into Court, and take upon them the proſecution or defence of the ſame ſuit to final judgment: And if, after a reaſonable time, according to the diſcretion of the Court, granted for this purpoſe, neither of them ſhall appear as aforeſaid, or appearing, ſhall afterwards become nonſuit, or be defaulted, then the ſame proceedings and judgment ſhall be had therein, *mutatis mutandis*, as would have been had between the original parties.

[This Act paſſed *February* 9, 1789.]

An ACT for ſetting off *Joſeph Perkins* and *Jacob Perkins* from the South Pariſh in *Malden*, and annexing them to the North Pariſh in ſaid Town.

[This Act paſſed *February* 10, 1789.]

An

An ACT in Addition to an Act paſſed in the Year of our LORD One thouſand ſeven hundred and eighty-one, entitled, "An Act to incorporate certain Phyſicians by the Name of *The Maſſachuſetts Medical Society.*"

[This Act paſſed *February* 10, 1789.]

An ACT to enable the Town of *Watertown* to regulate and order the taking of the Fiſh called Shad and Alewives, within the Limits of the ſaid Town.

[This Act paſſed *February* 10, 1789.]

An ACT authorizing Executors and Adminiſtrators to make Sale of Real Eſtate mortgaged to their Teſtators or Inteſtates, and ſuch as they ſhall take in Execution in certain Caſes.

Preamble.

WHEREAS doubts have ariſen, and may ariſe, with reſpect to the extent of the right, intereſt, title and eſtate, which executors or adminiſtrators may have in houſes, lands and tenements mortgaged to their reſpective teſtators or inteſtates, and alſo the right, intereſt, title and eſtate, which executors or adminiſtrators may have in houſes, lands and tenements, ſet off by execution, at the ſuit of executors or adminiſtrators, for debts due to the eſtates of perſons deceaſed: For the better defining and declaring the law in thoſe reſpects,

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That whenever any perſon or perſons, to whom any lands, tenements or hereditaments may be mortgaged for the payment of debts, or the performance of any collateral promiſe or engagement whatſoever, ſhall deceaſe before recovery of ſeizen and poſſeſſion of the lands, tenements or hereditaments mortgaged, that then the debts due on ſaid deed of mortgage, and the lands, tenements or hereditaments, mortgaged by the ſame, ſhall be aſſets in the hands of executors or adminiſtrators, as perſonal eſtate, and the executors or adminiſtrators ſhall have the ſame control and power of diſpoſal of all the eſtate which the ſaid deceaſed had, in the lands, tenements and hereditaments mortgaged, as if they had been a pledge of perſonal eſtate; and executors or adminiſtrators, may bring actions for recovery of ſeizen and poſſeſſion of the lands, tenements and hereditaments mortgaged, as aforeſaid; in which actions, it ſhall be ſufficient to declare on the ſeizen and poſſeſſion of the teſtator or inteſtate.

When any perſon to whom lands, &c. are mortgaged ſhall deceaſe before recovery of ſeizen---executors and adminiſtrators authorized in ſuch caſes.

SECT.

When executors or administrators shall recover seizen or possession, distribution how made.

SECT. 2. *And be it further enacted*, That whenever executors or administrators shall recover seizen or possession of lands, tenements or hereditaments, mortgaged as aforesaid, the executors or administrators, shall be seized and possessed of the estate so recovered, to the sole use and behoof of the widow and heirs of the intestate, or such devisees of the testator, to whom said estate may be devised. And the Court of Probate may make distribution of the same, as of personal estate accordingly, unless the lands, tenements or hereditaments, mortgaged and recovered as aforesaid, shall be necessary for the payment of debts, legacies, annuities or charges of administration; and in that case, the said executor or administrator, having obtained license, in manner as by law provided, shall have full right, power and authority to dispose and make sale of the whole or part of the lands, tenements or hereditaments, recovered as aforesaid, as though the testator or intestate had died seized thereof, subject however to the right of redemption, in case such sale shall be made before such right shall be extinguished.

When judgment is recovered for money and lands, tenements, &c. shall be set off, distribution to be made as of personal estate.

SECT. 3. *And be it further enacted*, That whenever any executor or administrator shall recover judgment for any sum of money, whereon execution shall issue, and lands, tenements or hereditaments shall be set off to the said executor or administrator, in discharge of the said execution, the said executor or administrator shall be seized and possessed of the whole estate in the lands, tenements or hereditaments so set off, to the sole use and behoof of the widow and heirs of the deceased intestate, or to the residuary legatee or legatees of the testator, as the case may be; and the Court of Probate may make distribution of the same, as of personal estate, accordingly; unless the lands, tenements or hereditaments so set off, on the said execution, shall be necessary for the payment of debts, legacies, annuities or charges of administration; and in that case the said executor or administrator, having obtained license, in manner as by law provided, shall have full right, power and authority to dispose and make sale of the whole or part of the lands, tenements or hereditaments so set off as aforesaid, subject however to the right of redemption, in case such sale be made before such right shall be extinguished.

Right of redemption allowed the mortgager, his heirs or executors.

SECT. 4. *And be it further enacted*, That after executors or administrators shall recover seizen and possession of any lands, tenements or hereditaments mortgaged as aforesaid, or shall become seized and possessed of lands, tenements or hereditaments, by having the same set off in discharge of an execution as aforesaid, and before conveyance or assignment thereof, in manner aforesaid, if any mortgager, his heirs, executors, administrators, or assigns, or the person, his heirs, executors, administrators, or assigns, whose estate has been levied upon as aforesaid, shall, within the time limited for redeeming the

the eſtate mortgaged or levied upon, redeem the mortgaged or levied premiſes, the executors or adminiſtrators ſhall, in every inſtance, be entitled to receive the ſaid redemption-money, and are hereby authorized, empowered and directed to diſcharge the ſaid mortgaged premiſes or eſtate levied upon, by releaſe, quitclaim, or other legal conveyance.

No laſt will or teſtament to be controlled.

SECT. 5. *And be it further enacted*, That nothing in this Act contained, ſhall be conſtrued to control any laſt will or teſtament, or any part thereof.

Former Act repealed.

SECT. 6. *And be it further enacted*, That an Act made and paſſed the twenty-ſeventh day of *June*, ſeventeen hundred and eighty-ſix, entitled, "An Act authorizing executors and adminiſtrators to make ſale of real eſtate mortgaged to their teſtators or inteſtates, and ſuch as they ſhall take in execution in certain caſes," be and hereby is repealed.

[This Act paſſed *February* 11, 1789.]

An ACT for granting a Lottery for the Purpoſe of erecting a ſuitable Building for the Uſe of the Free School in *Williamſtown*.

[This Act paſſed *February* 11, 1789.]

An ACT authorizing Courts having criminal Juriſdiction, to award, in certain Caſes, conditional Sentences againſt Offenders.

Preamble.

WHEREAS Courts having criminal juriſdiction, are authorized, for the puniſhment of certain offences, to award, at their diſcretion, either a fine or impriſonment, confinement to hard labour, or corporal and ignominious puniſhment of the offender:

And whereas the fines, in ſuch caſes impoſed, are oftentimes avoided by the inability or obſtinacy of offenders, who remain in priſon, at the great expenſe of the counties having them in charge, which diſcourages the infliction of fines:

Conditional ſentences may be awarded in certain caſes.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That when before any Court, having juriſdiction thereof, any perſon ſhall be convicted of any crime or offence, which by law is puniſhable by a fine, or by impriſonment, confinement to hard labour, or corporal and ignominious puniſhment of the offender, at the diſcretion of ſuch Court, the Juſtices of ſuch Court are hereby authorized and empowered, if they ſee cauſe, to award a conditional ſentence againſt ſuch offender, and to order ſuch offender to pay a fine within a limited time, to be expreſſed in ſuch ſentence; and in default thereof,

thereof, to ſuffer ſuch other puniſhment as may by law be inflicted on the offender for ſuch offence.

Sheriff to cauſe ſentences to be inflicted.

SECT. 2. *And be it further enacted*, That in caſe the perſon againſt whom ſuch ſentence ſhall be awarded, ſhall not pay the fine impoſed within the time limited, it ſhall be the duty of the Sheriff of the county, having charge of ſuch offender, to cauſe the other part of ſuch ſentence to be inflicted, according to the form and effect thereof, any law, uſage, or cuſtom, to the contrary notwithſtanding.

[This Act paſſed *February* 13, 1789.]

An ACT for bringing to a ſpeedy Settlement all Accounts ſubſiſting between Towns and ſuch Perſons as may have been employed by them in enliſting and paying Soldiers, and furniſhing Supplies for the late Continental Army.

[This Act paſſed *February* 13, 1789.]

An ACT reſpecting loſt Goods, and ſtray Beaſts.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That whoever ſhall find any money or goods loſt, of the value of *Six Shillings* or upwards, whereof the owner is unknown, the finder ſhall, within ten days next following, at the furtheſt, give notice thereof, in writing, unto the Clerk of the town in which they are found, and pay him *One Shilling and Six Pence*, for making an entry thereof in a book to be kept for that purpoſe, and for procuring the ſame to be recorded with the Regiſter of Deeds for the ſame county, as is in this Act directed: And the finder ſhall alſo cauſe a notification thereof to be poſted up in ſome public place within the ſame town, and alſo ſhall cauſe the ſame to be publickly cried therein, on three ſeveral days, provided there ſhall be any public Crier in ſaid town: And if the money or goods, ſo found, be of the value of *Forty Shillings* or upwards, then to be cried as aforeſaid, and notice thereof poſted up in like manner in the ſame, and the two next adjoining towns, within one month next after ſuch finding.

Money or goods found, of the value of 6*s.* —notice how given.

If the money or goods found amount to 40*s.* —notice how given.

SECT. 2. *And be it further enacted*, That every perſon who ſhall find and take up any ſtray beaſt, ſhall cauſe the ſame to be entered, with the colour and marks, natural and artificial, and alſo to be poſted up and cried in manner and time as aforeſaid; and likewiſe, within ten days, put, and from time to time keep a withe about the neck of ſuch ſtray beaſt (ſheep only excepted from being withed) on pain of loſing all his charges about it afterwards: And ſuch finder of loſt goods or ſtray beaſt, ſhall alſo, within two months, and before any uſe or

Stray beaſts to be cried, poſted and withed.

Finder to cauſe goods or ſtrays, to be appraiſed.

or improvement thereof is made to its diſadvantage, procure, from the Town-Clerk or a Juſtice of the Peace, a warrant, directed to two ſuch diſintereſted, judicious perſons, as the Clerk or Juſtice ſhall appoint, returnable into the Town-Clerk's office in ſeven days from the date, to appraiſe and value the goods or ſtray beaſt, upon oath, at the true value thereof in money, according to their beſt judgment, and to adminiſter an oath unto them for that purpoſe accordingly; which warrant and oath the Clerk and Juſtice are hereby reſpectively authorized to iſſue and adminiſter.

If the owner appear within one year and a day, reſtitution ſhall be made.

SECT. 3. *And be it further enacted*, That if the owner of any ſuch loſt money, goods, or ſtray beaſt, appear within one year and a day next after ſuch notice of the finding given to the Town-Clerk as aforeſaid, and make out his right and title thereunto, he ſhall have reſtitution of the ſame, or the full value thereof, allowing and paying *Three Pence* for each time it was cried, and the money paid for entering the ſame as aforeſaid, together with ſuch neceſſary charges as ſhall have ariſen in keeping, notifying, appraiſing, and neceſſary travel reſpecting the buſineſs, to be liquidated and adjuſted by ſome Juſtice of the Peace of the ſame county, in caſe of diſagreement between the owner and finder: And if no owner appear within one year and a day as aforeſaid, then ſuch ſtrays, loſt money or goods, ſhall be and remain to the finder, he paying one half of the value thereof (all neceſſary charges being firſt deducted) according to appraiſement, unto the Treaſurer of ſuch town, for the uſe of the poor thereof, and to be recovered by the Town-Treaſurer (upon neglect or refuſal to pay the ſame) as in other caſes.

No owner appearing, proceeds to be divided between the finder and the poor of the town.

Town-Clerks to tranſmit copies of all entries of loſt goods or ſtrays to the Regiſter of Deeds.

SECT. 4. *And be it further enacted*, That the Town-Clerk ſhall once every two months tranſmit to the Regiſter of Deeds in the county where he lives, an authentic copy under his hand of all entries that ſhall be made with him of loſt money, goods, or ſtrays, excepting all ſuch loſt goods or ſtrays as ſhall be delivered to the owner thereof, within the ſaid two months, and ſhall pay to the Regiſter *Six Pence* for each copy of an entry tranſmitted to him as aforeſaid; and the Regiſter ſhall keep a book, wherein he ſhall record all entries tranſmitted by the Town-Clerk as aforeſaid, and give out copies of the ſame when deſired, at the price of *Six Pence* for each copy, and for ſearching ſuch record ſhall be allowed *Two Pence*, and no more. And if any Town-Clerk or Regiſter ſhall neglect or fail of doing his duty, as by this Act is provided and directed, their reſpective fees being paid, or tendered unto them as is in this Act mentioned, he ſhall, for every ſuch neglect, forfeit and pay the ſum of *Forty Shillings*, one half to the uſe of the county, and the other half to him or them that will proſecute and ſue therefor.

Regiſters to record the ſame.

Penalty for neglect.

SECT.

SECT. 5. *And be it further enacted*, That if any finder of any loſt goods, money, or ſtray beaſt, of the value of *Six Shillings* or upwards, ſhall neglect to cauſe the ſame to be entered, cried and poſted up in manner and time as before directed, or to withe ſuch ſtray beaſt, he ſhall forfeit and pay the full value of ſuch goods, money or ſtray beaſt, one half to the uſe of the county, and the other half to him or them that will proſecute and ſue for the ſame. And if the owner of any ſtray beaſt, or other perſon, ſhall take off the withe from the ſame, or take away ſuch ſtray beaſt before all the neceſſary charges ariſen for entering, crying, notifying, keeping and appraiſing thereof be defrayed, ſuch perſon, ſo offending, ſhall forfeit and pay unto the finder of ſuch ſtray beaſt, the full value of the ſame.

Penalty on the finder, for neglect of entering, crying, &c.

Penalty for taking off the withe, &c.

SECT. 6. *And be it further enacted*, That no perſon, from the fifteenth day of *April* to the firſt day of *November*, ſhall take up any horſe, gelding, mare or other beaſt for a ſtray, unleſs ſuch beaſt be taken, damage feaſant, in ſome incloſure, and impounded for that, or ſome other ſufficient cauſe.

No ſtrays to be made at certain ſeaſons of the year.

SECT. 7. *And be it further enacted*, That all acts and laws heretofore paſſed, relating to ſtrays and loſt goods, be and hereby are repealed.

Former laws repealed.

[This Act paſſed *February* 13, 1789.]

An ACT for regulating Swine.

Addit. Act, Mar. 7, 1797.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That there ſhall be appointed at the annual meeting in *March* or *April*, in each town in this Commonwealth, two or more perſons for Hogreeves, who ſhall be choſen and ſworn in the ſame manner as other town officers; whoſe duty it ſhall be to carry the regulations made by this Act into execution; and any perſon who ſhall ſuffer his ſwine to go at large out of his incloſure, ſhall forfeit and pay *One Shilling* for each ſwine thus ſuffered to go at large, to be recovered with coſts of ſuit by any Hogreeve or other perſon who will ſue therefor, before a Juſtice of the Peace in the ſame county, by action of debt, or by impounding ſuch ſwine. And when ſwine are impounded, to recover the penalty incurred by this Act, the owner, if known, ſhall be notified in the time and manner by law directed, and if unknown, ſuch notice of the time, place and cauſe of impounding ſhall be given, as the law in that caſe hath directed; and if no owner appear within three full days after the impounding, to pay the forfeiture and charges, and reaſonable expenſe of keeping, or to replevy ſuch ſwine, the impounder may, in writing, apply to a Juſtice of the Peace of the ſame county, or to the Clerk of

Hogreeves to be annually choſen.

Penalty for ſwine going at large.

When ſwine are impounded, penalty how recovered.

the same town, and there file an information of the transaction upon oath; and if it shall appear, from such information, to the satisfaction of the Justice or Clerk, that such impounder has complied with the directions of the law in such cases, then such Justice or Clerk may issue a precept in form as hereafter prescribed, to any Constable of the same town, if the Constable himself is not the impounder, or interested: and if he is, to any other discreet or disinterested inhabitant of the same town, to sell the swine, and after paying the impounder the fine and costs and expenses, to be taxed and allowed by the Justice or Clerk, to deliver the surplusage into the town treasury, there to remain for the owner, deducting *One Shilling* on the *Pound* for the Treasurer's trouble, in case he shall appear and claim it within one year and a day from the time of issuing such precept; but in case no owner appear within that time, such surplusage shall be one half to the impounder, and the other half to the poor of the town, and be by the Treasurer distributed accordingly.

SECT. 2. *And be it further enacted*, That the form of the precept to be issued for selling swine impounded, to recover the forfeiture incurred by a breach of this Act, shall be in substance as follows:

(Seal.) *S*—— ss.

To either of the Constables of the town of

GREETING.

Form of a precept for selling swine impounded; for a breach of this Act.

WHEREAS *A. B.* of *B*——, in the county of *S*——, [addition] has this day given me information, that on the day of he found a swine [here insert the marks, natural and artificial, if any, and such a description of the size and age, as can conveniently be done] owned by *C. D.* of [addition] going at large in said town of *B*——, against the statute in that case provided; whereby the said *C. D.* forfeited the sum of *One Shilling*; for the recovery of which he impounded the same swine, and within twenty-four hours then next following, gave him notice thereof, in writing (or left a notification thereof at his dwelling-house, as the case may be) and although three full days have elapsed since the impounding, yet he has not paid the said forfeiture and charges, nor has he replevied the same swine (or in case the owner is unknown, after the description of the swine, its marks natural and artificial, let it be inserted, belonging to some person unknown) at the time of impounding, going at large against the statute in that case provided, whereby the owner forfeited the sum of *One Shilling*, for the recovery of which he impounded the same swine, and within twenty-four hours then next following, caused notifications of the time, place and cause of impounding, to be posted up agreeably to the directions of the law in such cases; and although three full days have

elapsed

elapſed ſince the impounding, no perſon hath appeared to pay the ſaid forfeiture and charges, or replevied the ſame ſwine, as by the information by him ſigned and ſworn unto, with me now remaining, appears:

THESE are therefore, in the name of the Commonwealth of *Maſſachuſetts*, to will and require you, after you have poſted up notifications of the time and place of ſale, twenty-four hours beforehand, to ſell and diſpoſe of the ſaid ſwine, at ſuch time and place as you ſhall have thus appointed, to the higheſt bidder; and from the monies ariſing upon the ſale, you are to pay the ſaid *A. B. One Shilling* for the ſaid forfeiture, and *Shillings and Pence*, by me allowed, for his coſts, charges and expenſes (according to the bill annexed) and *One Shilling* and *Six Pence* more for this precept, amounting in the whole to *Shillings and Pence*. And the ſurplus ariſing from ſuch ſale, deducting *Three Shillings and Six Pence* for your own fees on the buſineſs, you are to pay over to the Town-Treaſurer of *B*——, to be diſpoſed of as the law directs; and you are alſo directed to deliver the ſaid Treaſurer a copy of the information of the ſaid *A. B.* as it is recited herein, together with a certificate of the date of this proceſs: And of this precept, with your doings hereon, you are to make return, into the office of the Town-Clerk of *B*——, in fourteen days from this time. Given under my hand and ſeal, this day of *Anno Domini*

Perſon to whom the precept is directed, to be ſworn.

And when the precept is directed to a particular perſon by name, becauſe the Conſtable himſelf is the impounder, or intereſted, ſuch perſon ſhall be ſworn faithfully and impartially to execute it, according to the tenor thereof.

Towns may, at their annual meetings, give liberty for ſwine to go at large.

SECT. 3. *Be it further enacted*, That any town may, at the annual meeting in *March* or *April*, by a vote thereof, give liberty for ſwine to go at large during the whole or part of the year, in ſuch town, or in ſuch parts thereof, as the town ſhall determine moſt for the benefit of the inhabitants; in which caſe it ſhall be lawful for any perſon reſiding therein, to ſuffer his ſwine to go at large accordingly, without incurring the forfeiture aforeſaid; any thing in this Act contained to the contrary notwithſtanding. *Provided* ſuch ſwine ſhall be ſufficiently yoked from the fifteenth day of *April* to the firſt day of *November*, and conſtantly ringed in the noſe all the time they ſhall be permitted to go at large.

Proviſo.

And that it may be known what a ſufficient yoking doth mean:

What ſhall be deemed a ſufficient yoking.

SECT. 4. *Be it further enacted*, That a yoke which is the full depth of the ſwine's neck, above the neck, and half ſo much below the neck, and the ſoal or bottom of the yoke full three times as long as the breadth or thickneſs of the ſwine's neck upon which it ſhall be placed, ſhall be deemed a ſufficient yoking within the meaning of this Act.

[This Act paſſed *February* 13, 1789.]

An ACT for eſtabliſhing a Salary, of a fixed and permanent Value, for the Governor, and repealing a Law heretofore made for that Purpoſe.

Preamble.

WHEREAS the Conſtitution of this Commonwealth provides that the Governor thereof ſhall have an honourable ſtated ſalary, of a fixed and permanent value, eſtabliſhed by ſtanding laws, that he may not be under the undue influence of any of the members of the General Court, by a dependence on them for his ſupport; that he may in all caſes act with freedom for the benefit of the public; that he may not have his attention neceſſarily diverted from that ſubject to his private concerns, and that he may maintain the dignity of the Commonwealth in the character of its Chief Magiſtrate; and whereas the annual ſalary of *Eight Hundred Pounds* will be amply ſufficient for all the purpoſes aforeſaid: Therefore,

Annual ſalary for the Governor, eſtabliſhed.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That from and after the laſt Wedneſday of *May* next, the ſum of *Eight Hundred Pounds*, in ſpecie, be and hereby is eſtabliſhed as the annual ſalary of the Governor, for the time being, and a proportionable ſum for a leſs time, in full for his ſervices as Governor, to be paid out of the public treaſury.

No fee or perquiſite ſhall be allowed.

SECT. 2. *And be it further enacted,* That the Governor ſhall not be entitled to any reward, fee or perquiſite in addition to the ſalary eſtabliſhed by this Act.

Former law repealed.

SECT. 3. *And be it further enacted,* That the aforeſaid Act for eſtabliſhing a ſalary of a fixed and permanent value for His Excellency the Governor, paſſed the eighth day of *February*, one thouſand ſeven hundred and eighty-one, ſhall, from and after the laſt Wedneſday in *May* next, become null and void.

[This Act paſſed *February* 13, 1789.]

An ACT in Addition to, and in Explanation of an Act paſſed the twenty-third Day of *June*, in the Year of our LORD One thouſand ſeven hundred and eighty-three, entitled, "An Act for the Preſervation of the Fiſh called Alewives, in *Wewewantett-River*, in the County of *Plymouth*;" and for repealing an Act in Addition to ſaid Act, which paſſed the twenty-ninth Day of *March*, in the Year of our LORD One thouſand ſeven hundred and eighty-eight.

[This Act paſſed *February* 13, 1789.]

An ACT in Addition to an Act, entitled, "An Act for erecting that Part of the Town of *Falmouth*, in the County of *Cumberland*, commonly called the Neck, into a Town by the Name of *Portland*."

[This Act paſſed *February* 13, 1789.]

An ACT for incorporating of certain Perſons for the Purpoſe of making, laying and maintaining a Boom acroſs *Androſcoggin-River*, in the County of *Lincoln*.

[This Act paſſed *February* 14, 1789.]

An ACT providing for the Support of the Poor.

[This Act paſſed *Feb.* 14, 1789. Repealed *Feb.* 26, 1794.]

An ACT for incorporating the northeaſterly Part of Town of *North-Yarmouth*, together with a Tract of Land called *Prout's Gore*, in the County of *Cumberland*, into a ſeparate Town by the Name of *Freeport*.

[This Act paſſed *February* 14, 1789.]

An ACT for naturalizing *James Huyman*, and others, therein named.

[This Act paſſed *February* 14, 1789.]

An ACT to empower the Inhabitants of the Town of *Portland*, belonging to the ſeveral Religious Societies within the ſame, to raiſe Money for defraying Miniſterial and other Charges.

[This Act paſſed *February* 14, 1789.]

An Act declaring the Cauſes for which Cattle may be impounded, the Manner how they ſhall be proceeded with in ſuch Caſes, and for preventing Reſcue and Pound Breach.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame*, That there ſhall be kept and maintained in each town, at their proper coſt and charge, a ſufficient pound or pounds, in ſuch place or places therein as the town ſhall direct, who ſhall

Each town to keep and maintain a ſufficient pound.

shall also appoint a suitable person to keep each pound; wherein swine, sheep, horses and neat cattle may be restrained and kept for the causes herein after mentioned; and any town that shall neglect to provide or maintain such pound for the space of six months, shall forfeit and pay to the use of the county, *Ten Pounds*, to be recovered by presentment of the Grand Jury.

Penalty for neglect.

Field-Drivers shall be annually chosen.

Their power.

SECT. 2. *And be it further enacted*, That there shall be chosen at the annual meeting for the choice of town officers, in each town, two or more persons for Field-Drivers, who shall be sworn to the faithful discharge of their trust; and the Field-Drivers thus chosen and sworn are hereby severally authorized and empowered to take up and impound any swine unyoked or unringed, horses unfettered, sheep not under the care of a shepherd, or going at large on the common or highways leading through such town, between the fifteenth day of *April* and the first day of *November*, and them in pound detain, or deal with as is herein after mentioned, until the owner shall pay, for the use of the Field-Driver, *One Shilling* a head for all such horses, and *Three Pence* a head for all sheep and swine; besides *Two Pence* a head for all such horses, and *One Penny* for all sheep and swine, to the Pound-Keeper who may have the care of the particular pound in which they may be restrained.

Persons injured, whose lands are sufficiently fenced, may have and maintain actions of trespass, &c.

SECT. 3. *And be it further enacted*, That any person injured in his tillage, mowing, or other lands under improvement, that are inclosed with a legal and sufficient fence, whether such improved lands be in a common or general field, or in a close by itself, by swine, sheep, horses, or neat cattle, may have and maintain an action of trespass, *quare clausum fregit*, against the owner of the cattle for his damages; or he may impound the creatures doing the damage, or some of them, at his election, with or without the aid of a Field-Driver; and in case he impound the creatures, he may restrain them in one of the town pounds, or in some other place under his immediate care and inspection, as may be most convenient for relieving them with suitable meat and water; which relief it shall be the duty of the person impounding to furnish, or cause to be sufficiently furnished, during their confinement.

When creatures are impounded, the owners shall be notified.

SECT. 4. *And be it further enacted*, That when any of the creatures aforesaid shall be impounded, whether it be done for being at large out of the owner's inclosure, or for doing damage as aforesaid, the person impounding shall inform the owner of the creatures impounded (if known) within the space of twenty-four hours, by giving him a notification thereof in writing or otherwise; and in case the owner of the creatures impounded be absent, such written notification shall be left at his house or usual place of abode, describing the creatures, and specifying the time, place and cause of impounding. And the person impounding shall also leave with the Pound-Keeper, if they are in the town or district pound, at the time such creatures

tures are committed to his cuſtody, a memorandum, in writing, under his hand, of the cauſe of impounding, and the ſum he demands in damages from the owner before they are liberated: And no action ſhall be maintained againſt the Pound-Keeper for detaining ſuch creatures, until that ſum, with his lawful fees, ſhall be paid.

Memorandum of the cauſe of impounding ſhall be left with the pound-keeper.

Provided nevertheleſs, That if the perſon whoſe creatures are impounded, damage feaſant, ſhall think the damages mentioned in the memorandum left with the Pound-Keeper are unreaſonable, he may have the ſame aſcertained by two or more diſintereſted, judicious perſons, being thereto appointed and duly ſworn by ſome Juſtice of the Peace for the ſame county, or by the Town-Clerk, where no Juſtice of the Peace is; which ſum thus aſcertained ſhall be taken inſtead of the ſum firſt left with the Pound-Keeper. And if the owner doth not, within twenty-four hours after notice as aforeſaid, pay the damages and charges of impounding, or replevy the creatures, the party treſpaſſed upon may apply to a Juſtice of the Peace or the Town-Clerk for a warrant, directed to two or more diſintereſted, judicious perſons, which warrant the Town-Clerk of the ſame town, or any Juſtice of the Peace in the ſame county, may iſſue, and make returnable into the Town or Diſtrict Clerk's office of the ſame town or diſtrict, as ſoon as the buſineſs is performed, and may alſo adminiſter an oath unto the perſons appointed, faithfully and impartially to eſtimate the damage done the party injured, and alſo to appraiſe ſo many of the creatures impounded as ſhall be ſufficient to anſwer the damages and all charges. And the party damniſied, after the perſons appointed as aforeſaid ſhall have aſcertained the damage, and valued ſuch of the creatures as ſhall be neceſſary to ſatisfy the ſame, and charges, and have made return of their warrant into the Clerk's office, with their doings thereon, may retain and keep the creature or creatures, ſo appraiſed, to his own uſe, or may ſell the ſame at public vendue to the higheſt bidder, notice of ſuch ſale being poſted up at ſome public place within the ſame town or diſtrict twenty-four hours beforehand; and in either caſe, returning the overplus, if any there be, to the owner, and ſhall liberate the remainder of the creatures impounded; but in caſe the owner of the creatures impounded be unknown, the perſon impounding ſhall cauſe the ſame to be publickly cried, or notifications thereof, as aforeſaid, poſted up in ſome public places in the town or diſtrict, and in the two next towns or diſtricts adjoining, in caſe the diſtance thereunto from the place where the creatures may be taken up doth not exceed four miles; and if no owner or claimer appear within the ſpace of three full days next after the impounding and notifying as aforeſaid, then the perſon ſo reſtraining them may proceed with them in all reſpects as the law provides reſpecting ſtrays, after having his damages

Proviſo, if the owners ſhall think the damages required are unreaſonable.

When the owners neglect to pay damages and charges; what proceedings ſhall be had.

In caſe the owner be unknown, the creatures ſhall be publickly cried.

damages aſcertained, in caſe the cattle be taken damage feaſant, in manner as is before provided.

When actions of treſpaſs are brought, power of the Juſtice or Court.

SECT. 5. *And be it further enacted*, That when an action of treſpaſs ſhall be brought againſt the owner of any of the creatures aforeſaid, for damages by them done upon his incloſed lands under improvement, or when ſuch creatures, taken damage feaſant and impounded, ſhall be replevied, it ſhall be in the power of the Juſtice or Court before whom the cauſe ſhall be determined, to render judgment in favour of the perſon demanding damages for the injury ſuſtained, upon ſatisfactory evidence being produced, that ſuch creatures were either clandeſtinely turned in, or broke into the cloſe in a part where the fence was good and ſufficient, according to law, ſome other parts of the fence round the ſame cloſe being deficient notwithſtanding.

Penalty for reſcuing creatures out of the hands of the Field-Driver, &c.

SECT. 6. *And be it further enacted*, That if any perſon ſhall reſcue any creatures, taken up as aforeſaid, out of the hands or care of the Field-Driver, or from the hands of any other perſon being about to drive or convey them to pound, whereby the party injured may be in danger of loſing ſuch his remedy, and the law evaded, the perſon thus offending ſhall, for ſuch reſcue, forfeit and pay the ſum of *Forty Shillings*, to be recovered by action of debt, one half part to him or them that will ſue for the ſame, and the other half part to and for the uſe of the county within which the offence is committed; and be further liable to pay the party injured the full damages he might be entitled to recover, by impounding ſuch creatures, in an action of the caſe.

Penalty for pound breach.

And if any perſon ſhall make any pound breach, or by any indirect way or manner whatever, convey or deliver any of the creatures aforeſaid, impounded, from the pound or place where they may be reſtrained, the perſon thus offending ſhall forfeit and pay the ſum of *Five Pounds*, to be recovered by action of debt, one half to him that will ſue for the ſame, and the other half for the uſe of the county within which the offence may be committed; or by preſentment of the Grand Jury; in which caſe the whole penalty ſhall enure to the uſe of the county: And the Court before whom the conviction ſhall be, may, at the time of declaring the ſentence, further order, in default of payment of the ſaid ſum of *Five Pounds*, with coſts of proſecution, within fourteen days after ſentence, the perſon convicted to be publickly whipped not exceeding twenty ſtripes, or to be confined to hard labour for a term not exceeding ſix months; and the perſon offending as aforeſaid, ſhall be liable to pay the party injured double the damage he may be entitled to recover, by the impounding ſuch creatures, in an action of the caſe; and the party injured by a pound breach, when it is effected by an apprentice or minor, may proſecute for his damages, the parent

parent or master under whose care such apprentice or minor may then be, or the apprentice or minor, at his election; in which action, as well as for damages occasioned by the rescue of cattle about to be impounded, the defendant shall not be permitted to give in evidence, the insufficiency of the fence, if any such there be, or that the creatures, when taken, were under such circumstances as to render the impounding illegal, to prevent the party from recovering his full damages.

When pound breach is effected by an apprentice or minor, the party injured may prosecute the parent or master.

[This Act passed *February* 14, 1789.]

An ACT for limiting the Time within which Suits may be prosecuted against Executors and Administrators, and for perpetuating the Evidence of Notice given by them, and by Guardians and others, respecting the Sale of Real Estate.

Addit. Acts, Feb. 14, 1792, Feb. 14, 1793.

WHEREAS executors and administrators frequently suffer great loss and trouble, by reason of demands brought against them after they have closed their accounts of administration, and settlement of the estate they have administered, is made among the heirs or devisees; for remedy whereof, as well as for the more speedy settlement of estates,

Preamble.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That whenever an executor or administrator shall be appointed to the estate of any person deceased, and shall take upon himself that trust, by giving bond faithfully to discharge the duties thereof, as the law directs, he shall make known the same, within three months or sooner, by causing notifications thereof to be posted up in some public places in the town, district or plantation where the deceased was resident, and had his habitancy at the time of his death; and shall also give such further notice thereof, by causing the same to be published in some newspaper, or in such other manner, as the Court of Probate (taking into consideration the situation of the estate and business of the deceased) shall, in writing, direct. And if the deceased was neither an inhabitant or resident within this Government at the time of his death, the executor or administrator shall give such notice of his undertaking that trust, as the Court of Probate that issued the letters of administration, or approved the will, shall, in writing, direct: An affidavit of the executor or administrator made and filed in the same Probate Court, within seven months after undertaking that trust, accompanied with an original notification (or a copy thereof) of his undertaking that trust, and recorded in the Probate office, shall be admitted as evidence of the time, place and manner notice was given.

When executors or administrators are appointed; what notice shall be given.

Affidavits shall be admitted as evidence that notice was given.

And

And that executors and administrators may have sufficient time to obtain a competent knowledge of the situation and circumstances of the estate of the person deceased, under their administration, as to its solvency:

No executor or administrator shall be held to defend any suit instituted within twelve months: Unless, &c.

SECT. 2. *Be it further enacted*, That no executor or administrator shall be compelled in any Court of law to defend any suit that shall be commenced or instituted against him, in said capacity, within the term of twelve months next after his taking upon him that trust, unless the same shall be instituted for the recovery of a demand that will not be affected by the insolvency of the estate, or the suit shall be instituted for the purpose of ascertaining a claim that is contested. And all suits brought within one year as aforesaid (except for the purposes aforesaid) shall be continued at the plaintiff's expense, until that term from the time the executor or administrator gave bond in the Probate Court, for the faithful discharge of his trust, shall be fully expired; and in case the executor or administrator pays the demand, or will bring sufficient money into Court for that purpose, and there leave the same for the plaintiff's use, or shall make a legal tender thereof to the plaintiff, within the year, he shall recover his costs.

Claims of creditors shall be exhibited within three years.

SECT. 3. *And be it further enacted*, That all claims of creditors to the estate of any person deceased, upon which an executor or administrator has already undertaken the administration, shall be exhibited and demanded of the executor or administrator of such estate, within three years from the passing of this Act, or within three years after such claim may accrue, and not afterwards. And no executor or administrator that shall hereafter undertake that trust, shall be compelled or held to answer to the suit of any creditor of his testator or intestate, unless the same suit shall have been originally commenced within the term of three years next following his giving bond for the faithful discharge of his trust (except as hereafter excepted) *Provided* such executor or administrator shall give public notice of his appointment to that office, in the manner this Act directs. The filing a claim with the commissioners upon an estate represented insolvent, to be esteemed equivalent to originating a suit against executors or administrators, within the meaning of this Act.

No executor or administrator shall be held to answer to any suit after that time.

Proviso.

Clause respecting demands arising from covenant, contract or agreement, which could not be claimed until after said term of three years.

SECT. 4. *And be it further enacted*, That when any certain demand against the estate of any person deceased, arising from covenant, contract, or agreement, shall commence and be in force after the said term of three years, and which could not, by virtue of such covenant, contract or agreement (although known) be claimed until after the said term, in such case the claimant may, at any time within the said term of three years, file such future demand at the office of the Probate Court, where administration was granted, or the will was approved; and

and such Probate Court shall direct the executor or administrator to retain in his hands assets (if sufficient there be) to answer said demand, unless the heirs to such estate, or devisees thereof, or some one or more of them, shall give good and sufficient security, in the opinion of the Judge of Probate, for such executor or administrator to respond such demand; and when security is so given, such executor or administrator shall not be allowed to retain in his hands assets, for the purpose aforesaid; the estate of the said deceased shall however be liable, in the hands of the said heirs or devisees, or their heirs or assigns, to answer the said demand.

Remedy may be had against those who inherit the estate.

SECT. 5. *And be it further enacted*, That where certain demands against the estate of any person deceased, arise by virtue of any covenant, contract or agreement, that could not be claimed until after the said term of three years (such covenant, contract or agreement, not being in full force during said term) the claimant in such case, unless he shall have filed the same in the Probate Court, as aforesaid, may have his remedy against those who inherit the estate of such person, or devisees thereof, against whom the demand lies, if such claim be made within one year from the time of its becoming due, and not against the executor or administrator.

Proviso, respecting the recovery of legacies and bequests.

Provided always, That nothing in this Act shall operate to bar any action that may be commenced against an executor or administrator with the will annexed, for the recovery of a legacy, bequest, gift or annuity, arising, accruing or becoming due, by virtue of any last will and testament, but the same may be commenced and prosecuted in the same time, way and manner, as they might have been had this statute never been made.

Preamble.

And whereas executors and administrators, upon their obtaining license to sell real estate for the payment of debts or legacies, are by law directed, before sale be made, "to give thirty days public notice, by posting up notifications of such sale in the town or plantation where the lands lie, as well as where the deceased person last dwelt, and in the two next adjoining towns, as also in the shire town of the county." But no particular method is provided for perpetuating the evidence that such notice was given, by reason whereof disputes may arise respecting the legality of such sales:

Mode of perpetuating evidence that notice was given respecting the sale of real estates by executors and administrators.

SECT. 6. *Be it therefore further enacted*, That the affidavit of the executor or administrator, or the affidavit of such person or persons as may be by them employed, to post up such notifications, taken before the Probate Court, where such executor or administrator derived his authority to administer, within seven months next following the sale of the real estate, and there filed and recorded, together with one of the original advertisements of the time, place and estate to be sold, or a copy of such advertisement, are hereby declared to be one mode

mode of perpetuating the evidence that such notice was given, and also to make the originals or copies thereof, from the register of the Probate Court, admissible evidence in any Court of law: And when the person employed by the executor or administrator, to post up such notifications, resides more than ten miles distant from such Probate Court, his deposition respecting that matter, taken before a Justice of the Peace, and filed in such Probate Court, within the seven months as aforesaid, shall have the same force and effect, as if the same was taken before the Probate Court; and the printing a notification, three weeks successively, in such gazette or newspaper, as the Court, who may authorize the sale, shall order and direct, shall be deemed equivalent to the posting up of notifications as aforesaid.

Guardians, and others, authorized to perpetuate evidence in the same manner.

SECT. 7. *And be it further enacted*, That guardians and others, who, upon obtaining license for the sale of real estate, are or shall be directed to give public notice before sale be made, are hereby authorized to perpetuate the evidence, that such notice was given, in the Probate Court, where the guardian or other person selling is directed to account for the proceeds arising from the sale; in the same way and manner herein before provided for executors or administrators.

Executors and administrators, against whom suits are commenced, shall not be entitled to a continuance.

SECT. 8. *And be it further enacted*, That no executor or administrator, against whom any suit shall be commenced, after the expiration of one year from the time of his undertaking that trust, shall be entitled to a continuance of course, but shall be held to assign some good cause therefor, before he shall be allowed a continuance.

[This Act passed *February* 14, 1789.]

An ACT for rendering Processes in Law less expensive.

[This Act passed *February* 14, 1789.]

An ACT to prevent the Destruction of the Fish called Shad and Alewives, in *Mystick-River*, so called, within the Towns of *Cambridge*, *Charlestown* and *Medford*, and for repealing all Laws heretofore made for that Purpose.

[This Act passed *February* 16, 1789.]

An ACT for setting off *Benjamin Hodges*, from the Town of *Stoughton*, and annexing him to the Town of *Sharon*.

[This Act passed *February* 16, 1789.]

An

An ACT for incorporating the Plantation Number One, on the Eaſt Side of *Union-River*, in the County of *Lincoln*, into a Town by the Name of *Trenton*.

[This Act paſſed *February* 16, 1789.]

An ACT for incorporating the Plantation of *Goldſborough*, ſo called, in the County of *Lincoln*, into a Town by the Name of *Goldſborough*.

[This Act paſſed *February* 16, 1789.]

An ACT for incorporating the Plantation Number Two, on the Eaſt Side of *Union River*, in the County of *Lincoln*, into a Town by the Name of *Sullivan*.

[This Act paſſed *February* 16, 1789.]

An ACT to prevent the Deſtruction, and to regulate the Catching of the Fiſh called Salmon, Shad and Alewives, in the Rivers and Streams in the Counties of *Cumberland* and *Lincoln*, and to repeal all Laws heretofore made for that Purpoſe. Addit. Acts, Feb. 2, 1790, Feb. 24, 1794.

[This Act paſſed *Feb.* 16, 1789. Repealed *Mar.* 1, 1798.]

An ACT to enable the Proprietors of a Marſh, lying in the Towns of *Malden* and *Chelſea*, to make and maintain a Dam for the better improving of the ſaid Marſh.

[This Act paſſed *February* 17, 1789.]

An ACT for incorporating the Plantation of *Mount-Deſert*, ſo called, in the County of *Lincoln*, into a Town by the Name of *Mount-Deſert*.

[This Act paſſed *February* 17, 1789.]

An ACT to incorporate the Plantation called *Royalſborough*, in the County of *Cumberland*, into a Town by the Name of *Durham*.

[This Act paſſed *February* 17, 1789.]

An

An ACT to annex *Jabez Briggs* and *Gideon Gould*, with a certain Gore of Land, to the Town of *Sutton*, in the County of *Worceſter*.

[This Act paſſed *June* 5, 1789.]

An ACT directing an equal Diſtribution of the Eſtates of Inteſtates.

Preamble.

WHEREAS in an Act, entitled, "An Act directing the deſcent of inteſtate eſtates, and for empowering the Judge of Probate to make partition in certain caſes," paſſed on the ninth day of *March*, one thouſand ſeven hundred and eighty-four, it is enacted, "that when any perſon ſhall die, ſeized of any lands, tenements or hereditaments, not by him deviſed, the ſame ſhall deſcend in equal ſhares to and among his children, and ſuch as ſhall legally repreſent them (if any of them be dead) except the oldeſt ſon, then ſurviving, who ſhall have two ſhares, if there is no iſſue of an older ſon, in which caſe ſuch iſſue and lineal deſcendant or deſcendants of ſuch iſſue ſhall have two ſhares in right of the father, although the father died before the grandfather." And "that when any perſon ſhall die poſſeſſed of any chattels or perſonal eſtate not by him bequeathed, the ſame ſhall be diſtributed among his heirs, in the ſame way and manner real eſtates deſcend by this Act:"

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That when any perſon ſhall, after the firſt day of *January* next, die ſeized of any real eſtate in fee ſimple, or poſſeſſed of any chattels or perſonal eſtate, not by him deviſed or bequeathed, the ſame ſhall deſcend and be diſtributed in equal ſhares to and among his children, and ſuch as ſhall legally repreſent them (if any of them be dead) in like manner as it would have deſcended and been diſtributed, in virtue of the Act aforementioned, if the ſaid exception had not been contained therein, and not otherwiſe; any law, uſage or cuſtom to the contrary notwithſtanding.

Real or perſonal eſtate, not deviſed or bequeathed, to be equally diſtributed.

[This Act paſſed *June* 8, 1789.]

An ACT for ſetting off three Fifty Acre Lots of Land from the Town of *Goſhen*, in the County of *Hampſhire*, and annexing them to the Town of *Cheſterfield*, in the ſame County.

[This Act paſſed *June* 8, 1789.]

An

An ACT further to enable Conſtables and Collectors of Taxes to complete their Collections in certain Caſes.

BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That where any perſon, duly rated in any town, diſtrict, precinct, pariſh or plantation, hath died, or ſhall die before the payment of the ſame rates, and where any perſon, duly rated as aforeſaid, hath removed or ſhall remove out of the town, diſtrict or plantation, in which ſuch perſon lived at the time ſuch rates were or may be aſſeſſed, before the payment of ſuch rates, and where any unmarried woman, being duly rated as aforeſaid, hath intermarried, or ſhall intermarry before payment of ſuch rates; in all ſuch caſes, it ſhall and may be lawful for the Conſtables or Collectors of ſuch town, diſtrict, precinct, pariſh or plantation, to ſue for ſuch rates, and they ſhall have the like remedy for the recovery thereof, as other creditors have for recovering their proper debts.

Conſtables or Collectors empowered to ſue in certain caſes.

[This Act paſſed *June* 15, 1789.]

An ACT in Addition to an Act paſſed the laſt Year, entitled, "An Act for the Preſervation of the Fiſh called Alewives, in *Mattepoiſet-River*, in *Rocheſter*, in the County of *Plymouth*, and for regulating the Taking of the ſaid Fiſh in the ſaid River."

[This Act paſſed *June* 15, 1789.]

An ACT to enable the Town of *Charleſtown* to exchange a Part of the Miniſterial Lot in ſaid Town, for an equal Quantity of other Land.

[This Act paſſed *June* 17, 1789.]

An ACT for reviving and continuing ſundry Laws that are expired or near expiring.

[This Act paſſed *June* 17, 1789.]

An ACT regulating the Taking of the Fiſh called Alewives, in the *Town-Brook*, ſo called, in the Town of *Plymouth*.

[This Act paſſed *June* 20, 1789.]

An ACT in Addition to an Act made and passed in the Year of our LORD One thousand seven hundred and eighty-seven, entitled, "An Act for the Relief of poor Prisoners who are committed by Execution for Debt."

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That any person standing committed on an execution issued upon a confession before any Justice of the Peace agreeable to law, shall be entitled to all the benefits allowed by the said Act, to which this is an addition, to persons standing committed by force of any execution issuing from any Court in this Commonwealth, on a judgment rendered by such Court.

Persons standing committed on execution, to be entitled to all the benefits of the former act.

[This Act passed *June* 22, 1789.]

An ACT to encourage the Manufacture and Consumption of Strong Beer, Ale, and other Malt Liquors.

[This Act passed *June* 22, 1789.]

An ACT authorizing the Settlement of the Claims of Executors and Administrators in the Probate Court, by Referees.

Preamble.

WHEREAS executors and administrators, having claims against the estate of their testator or intestate, cannot commence and prosecute an action at law for the determination thereof, and it may tend to the furtherance of justice as well as the satisfaction of the parties interested, to have the same determined by Referees mutually chosen and appointed in the Probate Court:

Executors or Administrator's claims disputed, submitted to Referees.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That when an executor or administrator shall exhibit a claim, in writing, against his testator or intestate, to the Judge of Probate, having cognizance thereof, for allowance, and the same shall be disputed by any person interested adversely in the allowance thereof, it shall be lawful for the said executor or administrator, and the legatees or heirs whose interest will be affected by the issue thereof, to submit the determination of such claim to Referees who may be mutually agreed upon by the parties interested; and the Court of Probate, before whom such submission is made, may receive, approve and allow the report of such Referees, made in writing, pursuant to the submission and decree accordingly; *Provided,*

the

the submission be made in writing and signed by all the parties interested therein, or their agents duly authorized thereunto, and when any of the parties are minors, by his or their guardians, duly nominated and appointed. Proviso.

SECT. 2. *And be it further enacted*, That when a dispute shall arise respecting the occupation, use and improvement of real estate in the hands of the executor or administrator, and the quantum he ought to credit in his account therefor, it shall and may be lawful for the Judge of Probate to appoint three disinterested persons living near to the estate, to ascertain the true value thereof; and the report of them, or the major part of them, made thereupon, in writing, after hearing the parties and accepted by the Judge, shall be the sum the Executor or Administrator shall be charged with in his account, and no more. In case of dispute, the Judge of Probate to appoint Referees.

[This Act passed *June* 22, 1789.]

An ACT for naturalizing *Nathaniel Skinner*, and others, therein named.

[This Act passed *June* 22, 1789.]

An ACT for incorporating the easterly and southerly Parts of the Town of *Dunstable*, into a District by the Name of *Tyngsborough*.

[This Act passed *June* 22, 1789.]

An ACT determining what Transactions shall be necessary to constitute the Settlement of a Citizen in any particular Town or District.

[This Act passed *June* 23, 1789. Repealed *Feb.* 11, 1794.]

An ACT prescribing the Form of the Bond which shall be given by the Treasurer of the Commonwealth, and determining to whom such Bond shall be given.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That the person who now is, or shall be elected to the office of Treasurer and Receiver-General, shall, previously to his entering on the duties of the said office, besides taking and subscribing the declaration and oaths prescribed in the Constitution of this Commonwealth (which shall be done before the Requisite qualifications.

Governor and Council) alſo give bond with three good and ſufficient ſureties, in the ſum of *Fifty Thouſand Pounds*, to the firſt Counſellor of this Commonwealth, the Preſident of the Senate and Speaker of the Houſe of Repreſentatives, for the time being, and to their ſucceſſors in the reſpective offices before named; which bond ſhall be in the form following:

Form of Bond. KNOW ALL MEN by theſe Preſents, that We of in the county of in the Commonwealth of *Maſſachuſetts* as principal, and of as ſureties, are held and ſtand firmly bound and obliged to His Honour as firſt Counſellor of this C mmonwealth, the Honourable as Preſident of the Senate, and the Honourable as Speaker of the Houſe of Repreſentatives, and to their ſucceſſors in the reſpective offices before named, in the full and juſt ſum of *Fifty Thouſand Pounds*, to be paid to the ſaid or to their ſucceſſors in ſaid offices, to and for the uſe of the Commonwealth aforeſaid; to which payment well and truly to be made, we bind ourſelves, our heirs, executors and adminiſtrators, jointly and ſeverally, firmly by theſe Preſents. Sealed with our ſeals, and dated this day of in the year of our Lord, one thouſand ſeven hundred and , and in the year of the Independence of the United States of *America*.

The condition of this obligation is ſuch, that whereas the ſaid is choſen and appointed by the Senators and Repreſentatives of the Commonwealth aforeſaid, Treaſurer and Receiver-General for the ſame, to continue as ſuch until the annual election of Treaſurer; if therefore, the ſaid ſhall truly and faithfully diſcharge the duty of his truſt, according to law, and render an account when, and ſo often as he ſhall be required by the General Court, of all ſuch ſum and ſums of money as he ſhall, from time to time, receive into the treaſury, and ſhall well and truly pay to his ſucceſſor in the ſaid office, or to any other perſon that may be appointed by the General Court to receive the ſame, all ſuch ſum and ſums of money and other property, as, upon ſuch ſettlement of his ſaid accounts or otherwiſe, ſhall be found due and payable from him to this Commonwealth, as Treaſurer and Receiver-General aforeſaid, then the abovewritten obligation to be void and of no effect; but in default thereof, to remain in full force: *Provided*, That the bond be put in ſuit within three years next after the date of the ſame.

Proviſo.

Bond, where to be depoſited. SECT. 2. *And be it further enacted*, That the ſaid bond, when duly executed, ſhall be depoſited in the Secretary's office for ſafe keeping; and the perſons appointed by this Act to receive ſuch bond, ſhall be a Committee, who are hereby authorized

ized to judge and determine on the ſufficiency of thoſe who ſhall be propoſed as ſureties for the Treaſurer as aforeſaid; and it ſhall be the duty of the Governor and Council, and they are hereby empowered, when they ſhall judge it neceſſary, to direct the Attorney-General to put in ſuit ſuch bond given as aforeſaid, who is required, upon receiving ſuch direction, to put ſuch bond in ſuit accordingly.

Committee to determine ſureties.

Bonds how to be put in ſuit.

[This Act paſſed *June* 23, 1789.]

An ACT to enable the Proprietors of a Marſh and rough Meadow, lying in the Town of *Rowley*, to make and maintain a Dike, for the better improving ſaid Marſh and Meadow.

[This Act paſſed *June* 24, 1789.]

An ACT for incorporating the North Eleven Thouſand Acres, ſo called, in the County of *Berkſhire*, into a Diſtrict by the Name of *Bethlehem*.

[This Act paſſed *June* 24, 1789.]

An ACT for repealing certain Parts of an Act, entitled, "An Act to raiſe a public Revenue by Impoſt."

[This Act paſſed *June* 25, 1789.]

An ACT to provide for the Inſtruction of Youth, and for the Promotion of good Education.

Addit. Act, Mar. 4, 1800.

WHEREAS the Conſtitution of this Commonwealth hath declared it to be the duty of the General Court, to provide for the education of youth; and whereas a general diſſemination of knowledge and virtue is neceſſary to the proſperity of every State, and the very exiſtence of a Commonwealth:

Preamble.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That every town or diſtrict within this Commonwealth, containing *fifty* families, or houſeholders, ſhall be provided with a School-Maſter or School-Maſters, of good morals, to teach children to read and write, and to inſtruct them in the Engliſh language, as well as in arithmetic, orthography, and decent behaviour, for ſuch term of time as ſhall be equivalent to *ſix months* for one ſchool in each year. And every town or diſtrict containing *one hundred* families, or houſeholders, ſhall be provided with ſuch School-Maſter or School-Maſters, for ſuch term of

Towns to provide School-Maſters.

of time as shall be equivalent to *twelve months* for one school in each year. And every town or district containing *one hundred and fifty* families, or householders, shall be provided with such School-Master or School-Masters, for such term of time as shall be equivalent to *six months* in each year; and shall, in addition thereto, be provided with a School-Master or School-Masters, as above described, to instruct children in the English language, for such term of time as shall be equivalent to *twelve months* for one school in each year. And every town or district containing *two hundred* families, or householders, shall be provided with a grammar School-Master, of good morals, well instructed in the Latin, Greek and English languages; and shall, in addition thereto, be provided with a School-Master or School-Masters, as above described, to instruct children in the English language, for such term of time as shall be equivalent to *twelve months* for each of said schools in each year.

Towns containing 200 families, to provide a grammar School-Master.

And whereas by means of the dispersed situation of the inhabitants of several towns and districts in this Commonwealth, the children and youth cannot be collected in any one place for their instruction, and it has thence become expedient that the towns and districts, in the circumstances aforesaid, should be divided into separate districts for the purpose aforesaid:

Towns to define the limits of school districts.

SECT. 2. *Be it therefore enacted by the authority aforesaid*, That the several towns and districts in this Commonwealth, be and they are hereby authorized and empowered, in town-meetings, to be called for that purpose, to determine and define the limits of school districts within their towns and districts respectively.

And to the end that grammar School-Masters may not be prevented in their endeavours to discharge their trust in the most useful manner:

No youth to be sent to a grammar school until the Selectmen direct.

SECT. 3. *Be it further enacted*, That no youth shall be sent to such grammar schools unless they shall have learned, in some other school or in some other way, to read the English language, by spelling the same; or the Selectmen of the town where such grammar school is, shall direct the grammar School-Master to receive and instruct such youth.

President, &c. of the University, and others, to attend to the morals of youth under their care.

SECT. 4. *Be it further enacted by the authority aforesaid*, That it shall be and it is hereby made the duty of the President, Professors and Tutors of the University at *Cambridge*, Preceptors and Teachers of Academies, and all other instructors of youth, to take diligent care, and to exert their best endeavours, to impress on the minds of children and youth committed to their care and instruction, the principles of piety, justice, and a sacred regard to truth, love to their country, humanity, and universal benevolence, sobriety, industry and frugality, chastity, moderation and temperance, and those other virtues which are the ornament of human society, and the basis upon which the Republican Constitution is structured. And it shall be the

duty

duty of such instructors, to endeavour to lead those under their care (as their ages and capacities will admit) into a particular understanding of the tendency of the before mentioned virtues, to preserve and perfect a Republican Constitution, and to secure the blessings of liberty, as well as to promote their future happiness; and the tendency of the opposite vices to slavery and ruin.

And to the end that improper persons may not be employed in the important offices before mentioned:

Grammar School Masters to produce evidence of their knowledge in Greek & Latin languages.

SECT. 5. *Be it further enacted by the authority aforesaid*, That no person shall be employed as a School-Master as aforesaid, unless he shall have received an education at some College or University, and, before entering on the said business, shall produce satisfactory evidence thereof, or unless the person to be employed as aforesaid, shall produce a certificate from a learned minister, well skilled in the Greek and Latin languages, settled in the town or place where the school is proposed to be kept, or two other such ministers in the vicinity thereof, that they have reason to believe that he is well qualified to discharge the duties devolved upon such School-Master by this Act; and, in addition thereto, if for a grammar school, "that he is of competent skill in the Greek and Latin languages, for the said purpose." And the candidate of either of the descriptions aforesaid, shall moreover produce a certificate from a settled minister of the town, district, parish or place, to which such candidate belongs, or from the Selectmen of such town or district, or committee of such parish or place, "That to the best of his or their knowledge, he sustains a good moral character."

—And to sustain a good moral character.

Proviso.

Provided nevertheless, This last certificate, respecting morals, shall not be deemed necessary where the candidate for such school belongs to the place where the same is proposed to be actually kept; it shall however be the duty of such Selectmen or Committee who may be authorized to hire such School-Master, specially to attend to his morals; and no settled minister shall be deemed, held, or accepted to be a School-Master, within the intent of this Act.

Towns neglecting to procure and support School-Masters, subject to penalties.

SECT. 6. *And be it further enacted by the authority aforesaid*, That if any town or district having the number of *fifty* families, or householders, and less than *one hundred*, shall neglect the procuring and supporting a School-Master or School-Masters, to teach the English language as aforesaid, by the space of *six* months in one year, such deficient town or district shall incur the penalty of *Ten Pounds*, and a penalty proportionable for a less time than *six* months in a year, upon conviction thereof; and, upon having the number of *one hundred* families, or householders, and upwards, shall neglect the procuring and supporting such School-Master or School-Masters, as is herein required to be kept by such town, for the space of one year, every

every such deficient town or district shall incur the penalty of *Twenty Pounds*, and a proportionable sum for a less time than a year, upon conviction of such neglect. And every town or district having *one hundred and fifty* families, or householders, which shall neglect the procuring and supporting such School-Masters, and for such term of time as the schools aforesaid are herein required to be kept by such town or district, in any one year, shall incur the penalty of *Thirty Pounds*, and a proportionable sum for a less time, upon conviction of such neglect. And every town or district having *two hundred* families, or householders, and upwards, that shall neglect the procuring and supporting such grammar School-Master, as aforesaid, for the space of one year, shall incur the penalty of *Thirty Pounds*, and a proportionable sum for a less time than a year, upon conviction of such neglect.

Penalties to be levied by warrant.

SECT. 7. *And be it further enacted by the authority aforesaid*, That the penalties which may be incurred by virtue of this Act, shall be levied by warrant from the Supreme Judicial Court or Court of General Sessions of the Peace for the county to which such deficient town or district belongs, upon the inhabitants of such deficient town or district, in the same manner as other sums for the use of the county, and shall be paid into the county treasury, and the same shall be appropriated for the support of such school or schools as are prescribed by this Law in such town or towns, district or districts, in the same county, as shall have complied with this Law, and whose circumstances most require such assistance, or in such plantation or plantations in the same county, as the said Court of Sessions shall order and direct.

To be appropriated as the Court of Sessions shall direct.

Ministers, &c. to see the schools regularly attended by the youth.

And it shall be the duty of the Minister or Ministers of the Gospel and the Selectmen (or such other persons as shall be specially chosen by each town or district for that purpose) of the several towns or districts, to use their influence and best endeavours, that the youth of their respective towns and districts do regularly attend the schools appointed and supported as aforesaid, for their instruction; and once in every six months at least, and as much oftener as they shall determine it necessary, to visit and inspect the several schools in their respective towns and districts, and shall inquire into the regulation and discipline thereof, and the proficiency of the scholars therein, giving reasonable notice of the time of their visitation.

Towns, &c. to raise money for the support of schools.

SECT. 8. *Be it enacted by the authority aforesaid*, That all plantations which shall be taxed to the support of Government, and all parishes and precincts, are hereby authorized and empowered, at their annual meeting in *March* or *April*, to vote and raise such sums of money upon the polls and rateable estates of their respective inhabitants for the support and maintenance of a School-Master to teach their children and youth to read, write and cypher, as they shall judge expedient, to be assessed

assessed by their Assessors in due proportion, and to be collected in like manner with the public taxes.

Preamble. And whereas schools for the education of children in the most early stages of life, may be kept in towns, districts or plantations, which schools are not before particularly described in this Act; and that the greatest attention may be given to the early establishing just principles in the tender minds of such children, and carefully instructing them in the first principles of reading:

No person to keep a school until he or she obtain a certificate. SECT. 9. *Be it enacted*, That no person shall be allowed to be a Master or Mistress of such school, or to keep the same, unless he or she shall obtain a certificate from the Selectmen of such town or district where the same may be kept, or the Committee appointed by such town, district or plantation, to visit their schools, as well as from a learned Minister settled therein, if such there be, that he or she is a person of sober life and conversation, and well qualified to keep such school. And it shall be the duty of such Master or Mistress, carefully to instruct the children, attending his or her school, in reading (and writing, if contracted for) and to instil into their minds a sense of piety and virtue, and to teach them decent behaviour. And if any person shall presume to keep such school without a certificate as aforesaid, he or she shall forfeit and pay the sum of *Twenty Shillings*, one moiety thereof to the informer, and the other moiety to the use of the poor of the town, district or plantation where such school may be kept.

Forfeiture.

Requisite qualifications. SECT. 10. *Be it further enacted by the authority aforesaid*, That no person shall be permitted to keep, within this Commonwealth, any school described in this Act, unless, in consequence of an Act of naturalization, or otherwise, he shall be a citizen of this or some other of the United States. And if any person who is not a citizen of this or some one of the United States, shall presume to keep any such school within this State for the space of one month, he shall be subjected to pay a fine of *Twenty Pounds*, and a proportionable sum for a longer or shorter time; the one half of which fine shall be to the use of the person who shall sue for the same, and the other half thereof to the use of this Commonwealth.

Fines, how recovered. SECT. 11. *And be it further enacted by the authority aforesaid*, That all fines and forfeitures, for a breach of this Act, shall be recovered by bill, plaint or information, before any Court proper to try the same; and all Grand-Jurors shall diligently inquire, and presentment make, of all breaches and neglects of this Law.

SECT. 12. *And be it further enacted by the authority aforesaid*, That this Act shall be in force and operate from and after the first day of *October* next.

[This Act passed *June* 25, 1789.]

An

An ACT in Addition to the Act regulating the Exportation of Flax-Seed and other Articles, passed on the ninth Day of *November*, *Anno Domini* One thousand seven hundred and eighty-four.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the regulations respecting the shipping and exporting of flax-seed, as provided in the said Act to which this is an addition, shall, from and after the passing of this Act, extend and be construed to extend to the shipping and exporting of flax-seed which shall be exported to any port or place within the kingdom of *Ireland*, or that part of *Great-Britain*, commonly called *Scotland*, only; and that all flax-seed which shall be intended to be exported to any other port or place, may, after inspection and examination in manner as is provided in that Act, or as is herein after provided, be shipped and exported in bulk or in casks of any other dimensions than by that Act are required, any thing therein contained to the contrary notwithstanding: *Provided always*, That such casks shall have a mark of the Surveyor, expressing the quantity contained therein, and be otherwise surveyed and marked as in the said Act is provided and required.

Exportation of flax-seed, how regulated.

Proviso.

SECT. 2. *And be it further enacted by the authority aforesaid*, That in every case of the shipping of flax-seed in bulk, the owner or shipper thereof shall procure and produce to the master, officer or mariner of the vessel appointed to receive the same, duplicate certificates under the hand and seal of some Surveyor of flax-seed, that the quantity of flax-seed expressed in such certificates, hath been surveyed and examined, and been found to be well cleansed and in good order. And before such vessel, having on board flax-seed in bulk, shall be cleared out by any Naval-Officer of any port within this Commonwealth, the master, officer or mariner who has received such flax-seed, shall make oath to the whole quantity which hath been so laded and by him received on board such vessel, and by whom the same hath been shipped; and shall also lodge with such Naval-Officer one of the duplicates of the Surveyor's certificate or certificates for the whole quantity of flax-seed as aforesaid, and such Naval-Officer shall likewise require the oath of the respective owners or shippers of such flax-seed, to be taken before some such Naval-Officer, or certified to him by some Justice of the Peace, that the quantities of flax-seed, shipped as aforesaid, are the same which in such Surveyor's certificate or certificates respectively are contained and mentioned; and the other of the said duplicates, having the clearance of such Naval-Officer annexed, shall be carried by the master of such vessel, to be by him produced in any port or place where such flax-seed shall be unladed and discharged.

Owners or shippers of flax seed, to produce a certificate of survey.

SECT.

SECT. 3. *And be it enacted by the authority aforesaid*, That any person who shall presume to lade or receive in bulk, on board any vessel bound out of this Commonwealth, any flax-seed not having been surveyed and certified as aforesaid, shall forfeit and pay the sum of *Six Shillings* for every bushel of such flax-seed so shipped and received as aforesaid, with the whole of such flax-seed. Forfeiture.

SECT. 4. *And be it further enacted by the authority aforesaid*, That the Surveyor of any flax-seed intended to be shipped in bulk, shall have and receive for the same and his duplicate certificates thereupon, *One Half-Penny* for every bushel of such flax-seed by him surveyed and certified; and if guilty of any neglect or fraud therein, shall be liable to the same penalties and forfeitures as are already provided respecting the surveying of flax-seed, shipped in casks. And any person who shall be guilty of any fraud in forging or altering the certificate of any Surveyor, shall be liable to the like penalties as in the said Act are provided, in case of forging any brands or marks. Surveyor's fees. Penalties, in case of fraud.

SECT. 5. *And be it enacted by the authority aforesaid*, That all penalties and forfeitures which shall be incurred by virtue of this Act, shall be recovered and appropriated in manner as in the said Act, to which this is an addition, is provided. Penalties, how recovered.

[This Act passed *June* 25, 1789.]

An ACT to incorporate the Plantation from *Belfast* to *Wheeler's Mills*, west Side of *Penobscot-River*, in the County of *Lincoln*, into a Town by the Name of *Frankfort*.

[This Act passed *June* 25, 1789.]

An ACT to incorporate the Islands in *Penobscot-Bay*, commonly called the *North* and *South Fox-Islands*, in the County of *Lincoln*, into a Town by the Name of *Vinalhaven*.

[This Act passed *June* 25, 1789.]

An ACT in Addition to, and for repealing certain Clauses in an Act, entitled, "An Act to raise a public Revenue by Excises;" and also for repealing certain Clauses in an Act, entitled, "An Act in Addition to, and for the amending of an Act, entitled, "An Act to raise a public Revenue by Excises."

[This Act passed *June* 25, 1789.]

An

Addit. Acts, Mar. 3, 1791, June 17, 1791.

An ACT for erecting and eſtabliſhing two new Counties in the County of *Lincoln*, and declaring the Boundaries of the County of *Lincoln* in future.

Preamble.

WHEREAS the great extent of the county of *Lincoln* makes it convenient that two new counties ſhould be erected and eſtabliſhed in the eaſterly part thereof:

Lincoln county, how bounded.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That the county of *Lincoln* aforeſaid, be and hereby is declared to be bounded eaſterly by a line beginning at *Penobſcot-Bay*, in the boundary line between the town of *Thomaſtown* and the town of *Cambden;* thence running northweſterly by the eaſt line of *Thomaſtown*, *Warren* and *Union*, to the northeaſt corner of *Union;* thence north, twenty-two degrees and one half of a degree eaſt, until it interſects the north line of the *Waldo Patent;* thence north, to the highlands; all the other boundary lines of ſaid county to remain the ſame as heretofore: *Provided*, That no iſland lying to the eaſtward of a line to be drawn due ſouth from the moſt eaſterly part of the county of *Lincoln*, as declared to be bounded by this Act, ſhall be conſidered as belonging to the ſaid county of *Lincoln*.

Proviſo.

Hancock county, how bounded.

SECT. 2. *And be it further enacted*, That the weſtermoſt of the two new counties aforeſaid, ſhall be and it is hereby declared to be bounded weſterly by the eaſterly line of the county of *Lincoln*, above deſcribed, eaſterly by a line beginning at the bounds making the northeaſt corner of *Goldſborough*, and ſoutheaſt corner of townſhip Number Seven; thence running northerly by the eaſt line of Number Seven, and by the eaſt line of Number Ten, to the ſoutheaſt corner of townſhip Number Sixteen, from thence due north to the highlands, including all the Iſlands on the ſea coaſt of the ſaid new county, lying between lines drawn due ſouth from the eaſterly part of the county of *Lincoln*, as before deſcribed, and the northeaſterly corner of *Goldſborough* aforeſaid; and all the towns, diſtricts and lands within ſaid bounds ſhall, from and after the firſt day of *May*, one thouſand ſeven hundred and ninety, be and remain one entire and diſtinct county, by the name of *Hancock*, of which *Penobſcot* ſhall be the ſhire or county town; and the inhabitants of ſaid county of *Hancock* ſhall have, uſe, exerciſe and enjoy all ſuch powers, privileges and immunities as by law the inhabitants of any other county, within this Commonwealth, have, uſe, exerciſe and enjoy.

Courts, where to be held.

SECT. 3. *And be it further enacted*, That there ſhall be held and kept within the ſaid county of *Hancock*, a Court of General Seſſions of the Peace and a Court of Common Pleas, to ſit at *Penobſcot* aforeſaid, on the third Tueſday of *June* and *September* yearly, and in every year, until the General Court ſhall otherwiſe order; and the Juſtices of the ſaid Court of General Seſſions

Seſſions of the Peace and Court of Common Pleas, who are, or ſhall be thereunto lawfully commiſſioned and appointed, ſhall have, hold, uſe, exerciſe and enjoy, all and ſingular the powers which are by law already given and granted to ſuch Juſtices within any other county of this Commonwealth, where a Court of General Seſſions of the Peace and Court of Common Pleas are already eſtabliſhed. And all appeals from any judgment or judgments given at any Court of General Seſſions and at any Court of Common Pleas within the ſaid county of *Hancock*, ſhall be heard and tried at the Supreme Judicial Court, to be held yearly at *Pownalborough*, in the county of *Lincoln* aforeſaid.

Rules to be obſerved, as by law directed in other counties.

SECT. 4. *And be it further enacted*, That the methods and proceedings directed by law for chooſing a County-Treaſurer; alſo for the bringing forward and trying any actions, cauſes, pleas or ſuits, both civil and criminal, in the ſeveral counties of this Commonwealth and Courts of Judicature within the ſame, and for chooſing of Jurors to ſerve at the ſeveral Courts of Juſtice, ſhall be obſerved and put in practice within the ſaid county of *Hancock*, and by the Courts of Juſtice within the ſame; any law, uſage or cuſtom to the contrary notwithſtanding.

Waſhington county, how bounded.

SECT. 5. *And be it further enacted*, That the eaſtermoſt of the two new counties aforeſaid, ſhall be bounded in the following manner, *viz.* weſterly by the eaſterly line of the county of *Hancock* afore deſcribed, on the ſouth and ſoutheaſt by the ſea or weſtern ocean, on the north by the utmoſt northern limits of this Commonwealth, and eaſterly by the river *Saint Croix*, comprehending all the lands within this Commonwealth to the eaſtward of the line of the county of *Hancock* aforeſaid, including all the Iſlands on the ſea coaſt of the ſaid eaſtermoſt county; and all the towns, diſtricts and lands within ſaid bounds, together with the Iſlands aforeſaid, ſhall, from and after the firſt day of *May*, in the year of our Lord one thouſand ſeven hundred and ninety, be and remain one entire and diſtinct county, by the name of *Waſhington*, of which *Machias* ſhall be the ſhire or county town. And the inhabitants of the ſaid county of *Waſhington* ſhall have, uſe, exerciſe and enjoy, all ſuch powers, privileges and immunities, as by law the inhabitants of any other county within this Commonwealth, have, uſe, exerciſe and enjoy.

Courts, where to be held.

SECT. 6. *And be it further enacted*, That there ſhall be held and kept within the ſaid county of *Waſhington*, a Court of General Seſſions of the Peace and a Court of Common Pleas, to ſit at *Machias* aforeſaid, on the fourth Tueſday of *June* and *September* yearly, and in every year, until the General Court ſhall otherwiſe order: And the Juſtices of the ſaid Court of General Seſſions of the Peace and Court of Common Pleas, who are, or ſhall be thereunto lawfully commiſſioned and appointed, ſhall have, hold, uſe, exerciſe and enjoy, all and ſingular the powers which are by law already given and granted

to

to such Justices, within any other county of this Commonwealth, where a Court of General Sessions of the Peace and Court of Common Pleas are already established. And all appeals from any judgment or judgments, given at any Courts of General Sessions and at any Courts of Common Pleas within the said county of *Washington*, shall be heard and tried at the Supreme Judicial Court, to be held at *Pownalborough* yearly, in the county of *Lincoln* aforesaid.

Rules to be observed, as by law directed in other counties.

SECT. 7. *And be it further enacted*, That the method and proceedings directed by law for choosing a County-Treasurer, also for the bringing forward and trying any actions, causes, pleas or suits, both civil and criminal, in the several counties of this Commonwealth and Courts of Judicature within the same, and for choosing of Jurors to serve at the several Courts of Justice, shall be observed and put in practice within the said county of *Washington*, and by the Courts of Justice within the same; any law, usage or custom to the contrary notwithstanding.

Matters depending in Courts, &c. how proceeded on.

SECT. 8. *And be it further enacted*, That all writs, suits, plaints, processes, appeals, reviews and recognizances, and any other matters or things which now are, or at any time before the said first day of *May*, one thousand seven hundred and ninety, shall be depending in any Court within the county of *Lincoln*; and all matters and things which now are, or at any time before the first day of *May* aforesaid, shall be depending before the Judge of Probate, of the said county of *Lincoln*, shall be heard, tried, proceeded upon and determined, at such time and place, and in such manner as they would have been if this Act had not been made.

Conveyances, &c. to be held valid.

SECT. 9. *And be it further enacted*, That nothing in this Act contained shall be construed to disannul, defeat or make void, any conveyances of land lying in either of the new counties aforesaid, which are or shall be, before the establishment of a registry in each county, recorded in the Register's office of the county of *Lincoln* aforesaid; but all such deeds and conveyances, so recorded, shall be held as good and valid as they would have been in case this Act had not been made.

SECT. 10. *And be it further enacted*, That the inhabitants of the several towns and districts, within the counties aforesaid, shall pay their proportion of all county rates and taxes already granted and made, in the same manner as they would have done if this Act had not been made.

[This Act passed *June* 25, 1789.]

An ACT providing an Establishment for the Attorney-General.

[This Act passed *June* 25, 1789.]

An

An ACT prescribing the Form, and directing the Mode of Process, to be adopted in replevying of Cattle or Beasts distrained, and also of Goods and Chattels.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That when any person shall have his cattle restrained or impounded, in order to obtain satisfaction for damages they may have committed, or to obtain a forfeiture, supposed to have been incurred for their going at large, out of the inclosure of the owner, in violation of law, in order to have the legality of such distraint or impounding determined, he may have and prosecute a writ of replevin for the liberation of the cattle thus impounded, in the form following: Mode of process to be adopted.

COMMONWEALTH OF MASSACHUSETTS.

S——— ff.

(Seal.) *To the Sheriff of our county of* S———, *or his Deputy, or to either of the Constables of the town of* B. *in said county,* GREETING.

WE command you, that you replevy [*here insert a description of the beast or beasts impounded*] belonging to *P. D.* of *B.* [addition] now distrained or impounded by *S. P.* of *B.* [addition] in the common pound in said *B.* (or in such other place as they may be restrained) and them deliver unto the said *P. D. Provided,* The same are not taken and detained upon mean process, warrant of distress, or upon execution, as the property of the said *P. D.* and summon the said *S. P.* to appear before *I. S.* one of our Justices of the Peace for our said county of *S.* at his dwelling-house in *B.* on the day of at of the clock in the noon, to answer unto the said *P. D.* in a plea of replevin, for that the said *S. P.* on the day of at a place called *A.* in *B.* aforesaid, unlawfully took and impounded the said , and the same unjustly detained to this day, to the damage of the said *P. D.* as he saith, the sum of *Shillings,* as shall then and there appear, with other due damages: *Provided,* He, the said *P. D.* shall give bond, with sufficient surety or sureties, to the said *S. P.* in the sum of *Pounds,* being double the value of the said beasts, to prosecute his said replevin to final judgment, and to pay such damages and costs as the said *S. P.* shall recover against him, and also to return the said in case such shall be the final judgment. And of this writ, with your doings hereon, and the bond you shall take, you are to make return to our said Justice, on or before the said day of at o'clock. Witness *I. S.* our said Justice, at *B.* in said county, this day of *Anno Domini,* 17 *I. S.* Form of the writ.

And

And when the Sheriff or his deputy are parties, the writ may be directed to a Coroner; or where the sum does not exceed *Twenty Pounds*, it may be directed to a Constable, and by him executed.

Judgment in case of lawful detention, how rendered.

SECT. 2. *And be it further enacted*, That when it shall appear from the plea of the defendant in replevin, that the cattle were taken and impounded, damage feasant, or for the recovery of a penalty incurred for their being found going at large, out of the inclosure of the owner, in violation of law; and upon the issue it shall be determined that the cause of taking and detaining was lawful and justifiable, judgment shall, instead of a return of the cattle, be rendered for the defendant in replevin, to recover such reasonable damages as, upon a consideration of the circumstances of the case, the Justice (or a Jury, in case it comes before one) shall assess, together with costs of taking and impounding, and costs of defence: But if, upon the trial of the issue, it shall appear, that the cattle were taken or detained without sufficient and justifiable cause, the plaintiff in replevin shall recover such reasonable damages for the taking and detaining, as the Justice (or a Jury, in case it comes before one) shall assess, together with his costs: But when, from the matter of the plea of the defendant in replevin, damages with propriety cannot be assessed, or that a restoration of the property replevied is the best recompense the parties can have, and upon the issue it shall be found, that the cattle were taken and detained lawfully, and for justifiable cause, the judgment shall be rendered,—that the cattle be returned and restored to the defendant irrepleviable and for costs, and he be entitled to a writ of return and restitution accordingly.

How rendered if detained without a sufficient cause.

The defendant to recognize—to prosecute his appeal in certain cases.

SECT. 3. *And be it further enacted*, That when it shall appear from the plea or avowry of the defendant in replevin, that the sum demanded in damage for the taking and detaining exceeds *Eighty Shillings*, or that the property of the beast taken, is the question between the parties (in case the value exceeds *Eighty Shillings*) or that the right to soil and freehold is coming in question; in every such case, the Justice shall not proceed to try the issue, but shall order the defendant in replevin to recognize in a reasonable sum, with sufficient surety or sureties, to the adverse party, to enter the said action at the next Court of Common Pleas or the Supreme Judicial Court, to be held in the same county, as the plaintiff in replevin shall then and there elect and choose, and to prosecute the same to effect; and if such defendant in replevin shall neglect or refuse thus to recognize, the Justice shall render judgment against him in the same manner as if he refused to make answer to the same suit. And in case such defendant shall, after recognizing, fail of entering or prosecuting the same action, the plaintiff may enter and prosecute the action, or have his remedy on the recognizance, at his election.

Judgment to be rendered in certain cases.

SECT.

SECT. 4. *And be it further enacted*, That when any goods or chattels shall be taken, distrained or attached, which shall be claimed by a third person, and the person thus claiming the same shall think proper to replevy them, in case such goods and chattels are of the value of more than *Four Pounds*, he may take out and prosecute his writ of replevin from the Clerk's office of the Court of Common Pleas, in the county where the goods and chattels are thus taken, distrained or attached, in the form following, *viz.*

COMMONWEALTH OF MASSACHUSETTS.

S——— ff.

(Seal.) *To the Sheriff of our county of* S———, *or his Deputy*, GREETING.

[*or if the Sheriff or his Deputy are defendants, then it may be directed to a Coroner.*]

Writ of Replevin.

WE command you, that you replevy the goods and chattels following, viz. [*here enumerate and particularly describe them*] belonging to *P. D.* of *B.* [addition] now taken, detained or attached (as the case may be) by *S. P.* of *B.* [addition] at in *B.* aforesaid, and them deliver unto the said *P. D: Provided*, The same are not taken and detained upon mean process, warrant of distress, or upon execution, as the property of the said *P. D.* and summon the said *S. P.* that he appear before our Justices of our Court of Common Pleas, next to be holden at *B.* within and for our county of *S.* on the Tuesday of to answer unto the said *P. D.* in a plea of replevin, for that the said *S. P.* on the day of at said *B.* unlawfully, and without any justifiable cause, took the goods and chattels of the said *P. D.* as aforesaid, and them unlawfully detained to this day, to the damage of the said *P. D.* as he says, the sum of *Pounds: Provided*, He, the said *P. D.* shall give bond to the said *S. P.* with sufficient surety or sureties in the sum of *Pounds*, being twice the value of the said goods and chattels, to prosecute the said replevin to final judgment, and to pay such damages and costs, as the said *S. P.* shall recover against him; and also to return and restore the same goods and chattels, in like good order and condition as when taken, in case such shall be the final judgment; and have you there this writ, with your doings herein, together with the bond you shall take. Witness *S. N.* Esq. at *B.* this day of *Anno Domini* 17 *E. P.* Clerk.

Judgment for the defendant in case.

And in case the plaintiff in replevin shall neglect to enter and prosecute the suit, the defendant may, upon complaint, have judgment for a return and restoration of the goods and chattels replevied, and the damages for the taking, to the amount of *six per cent.* on the bond, with reasonable costs, and a writ of return and restitution thereupon accordingly. And if, upon a trial of the issue, judgment shall be rendered for a

Rule for estimating plaintiff's damages.

return and reſtitution, the intereſt of *ſix per cent.* upon the penal ſum of the bond ſhall be taken as a rule for eſtimating the plaintiff's damages, in caſe they were taken on execution. And when the cauſe of taking ſhall have been upon execution, the goods and chattels returned, ſhall be held reſponſible for the ſpace of twenty days after the return; and if on mean proceſs, until thirty days ſhall have expired, after final judgment thereon, in caſe judgment ſhall not then have been given; but if final judgment on the mean proceſs ſhall have been given before the return, then for the ſpace of twenty days only after the return, to the end the creditor, at whoſe ſuit they were originally taken, may have a complete remedy, and the benefit of his attachment. And the monies recovered by way of damages, by any officer who has taken or attached at the ſuit of a creditor, ſhall be conſidered and taken as recovered to the uſe of the creditor—and when received, be paid over to him accordingly.

SECT. 5. *And be it further enacted*, That when the defendant in replevin cannot be found, an authentic copy of the writ of replevin, atteſted by the officer, being left at his houſe or place of uſual abode, ſeven days if before a Juſtice, and fourteen if before the Court of Common Pleas, prior to the time of trial, ſhall be ſufficient to oblige the defendant to anſwer to the ſuit.

SECT. 6. *And be it further enacted*, That the form of the writ of return and reſtitution to be iſſued, to carry a judgment of that kind, rendered before a Juſtice of the Peace, into execution, ſhall be in ſubſtance as follows, *viz.*

COMMONWEALTH OF MASSACHUSETTS.

(Seal.) *S*——— ſſ.

To the Sheriff of our county of S-----, *or his Deputy*, GREETING.

Writ of return. WHEREAS *P. D.* of. *B.* in our county of *S.* [addition] lately replevied the beaſts following, [*Here inſert ſuch deſcription of them as they had in the writ of replevin*] which *S. P.* of *B.* in our county of *S.* [addition] had unlawfully taken and unjuſtly detained, as the ſaid *P. D.* ſuggeſted, and cauſed the ſaid *S. P.* to be ſummoned before *I. S.* one of our Juſtices of the Peace, for our ſaid county of *S.* to anſwer unto the ſaid *P. D.* for ſuch ſuppoſed unlawful taking and detaining, at a day now paſſed: And whereas upon the day of at *B.* aforeſaid, upon a hearing of the cauſe of taking and detaining the ſaid beaſts, before our ſaid Juſtice, it appeared that the ſame taking and detaining was lawful and juſtifiable: Whereupon it was then and there conſidered, that the ſame beaſts be returned, and reſtored to the ſaid *S. P.* irrepleviable, and that the ſaid *S. P.* recover againſt the ſaid *P. D.* the ſum of *Shillings* damages, for his taking the ſame, by the ſaid proceſs of replevin, and the further ſum of for his coſts, ariſen in the

the defence of the said suit, as by the record of our said Justice, before him remaining, to us appears; whereof execution remains to be done: We command you therefore, that you forthwith return and restore the same beasts unto the said *S. P.* And also that of the money of the said *P. D.* or of his goods or chattels, within your precinct, at the value thereof in money, you cause to be levied, paid and satisfied unto the said *S. P.* the aforesaid sums, being in the whole, with *One Shilling and Six Pence* more for this writ, together with your own fees; and for want of such money, goods or chattels of the said *P. D.* to be by him shewn unto you, or found within your precinct, to the acceptance of the said *S. P.* for satisfying the aforesaid sums:—We command you to take the body of the said *P. D.* and him commit unto our gaol in *B.* And we command the keeper thereof accordingly, to receive the said *P. D.* into our said goal, and him safely to keep, until he pay the full sums above mentioned, with your fees, or that he be discharged by the said *S. P.* the creditor, or otherwise by order of law. Hereof fail not, and make return of this writ, with your doings therein, unto our said Justice, within sixty days next coming. Witness our said Justice at *B.* the day of in the year of our Lord, *I. S.*

Withernam to be granted in case.

SECT. 7. *And be it further enacted*, That when the Sheriff or other officer, unto whom the writ of return and restitution shall be directed, shall not be able to find the beast or other property in his precinct, which shall, by the same precept, be directed to be returned and restored irrepleviable, and the same shall appear, in writing, by the return of the officer thereon, the Court from whence the same issued may, upon motion, grant a withernam against the plaintiff in replevin, to compel a complete and specific performance of the judgment; which writ of withernam shall be in substance as follows, viz.

COMMONWEALTH OF MASSACHUSETTS.

(Seal.) *S*——— ff.

To the Sheriff of our county of S———; *or his Deputy*, GREETING.

Writ of *Withernam.*

WHEREAS *P. D.* of *B.* in our county of *S.* [addition] lately replevied the beasts following, viz. [*here insert such description of them as they had in the writ of replevin*] and which were at the time of the replevy, of the value of which *S. P.* of *B.* aforesaid, had unlawfully taken and detained, as the said *P. D.* suggested, and caused the said *S. P.* to be summoned before *I. S.* one of our Justices of the Peace for our said county of *S.* to answer unto the said *P. D.* for such supposed unlawful taking and detaining, at a day now passed: And whereas upon the day of at *B.* aforesaid, upon a hearing of the cause of taking and detaining the said beasts, by our said Justice, it was determined, that the same

taking and detaining, was lawful and juſtifiable: Whereupon it was then and there conſidered, that the beaſts be returned and reſtored to the ſaid *S. P.* irrepleviable, and for his damages and coſts; and afterwards, on the day of our writ of return and reſtitution iſſued, in due form of law, directed to the Sheriff of our ſaid county of *S.* or his deputy, to return the ſame accordingly: Which writ of return and reſtitution was delivered to *C. D.* to execute accordingly; who, on the day of returned thereon, that [*here inſert the return made by the officer, of his inability to return the beaſt*] And we being deſirous that the ſaid *P. D.* ſhould not, by his falſe ſuggeſtions and pretenſions, any longer detain the beaſts ſo by him replevied as aforeſaid—command you forthwith to take the beaſts of the ſaid *P. D.* of like kind and value, if any he hath to be found in your precinct, in withernam, and in default thereof, any other of his goods and chattels, to the full value, in withernam, and them deliver unto the ſaid *S. P.* to be by him kept, uſed and improved, until the ſaid *P. D.* ſhall reſtore him the beaſts he took from him, by our writ of replevin, as aforeſaid; and alſo that of the money of the ſaid *P. D.* or of his goods or chattels, to be found within your precinct, at the value thereof in money, you cauſe to be paid and ſatisfied unto the ſaid *S. P. Three Shillings* for this writ, together with your own fees for executing the ſame. Hereof fail not, and make return of this writ, with your doings herein, unto our ſaid Juſtice, within ſixty days next coming.

Witneſs our ſaid Juſtice, at *B.* the day of in in the year of our Lord, *I. S.*

Writs varied in certain caſes.

SECT. 8. *And be it further enacted*, That when the writ of return and reſtoration, or writ in withernam, ſhall iſſue from any other Court of law, or for any other property than beaſts, the Court from whence the ſame ſhall iſſue ſhall ſo vary the form as to them ſhall appear expedient to carry the ſame into full force and effect, as the nature and circumſtances of the caſe ſhall require.

This Act to be in force from and after the twentieth day of *October*, one thouſand ſeven hundred and eighty-nine.

[This Act paſſed *June* 24, 1789.]

An ACT to enable *Dudley Atkins*, Eſquire, to take the Surname of *Tyng*.

[This Act paſſed *January* 16, 1790.]

An ACT for the Protection and Security of the Sheep and other Stock on *Tarpaulin-Cove-Iſland*, otherwiſe called *Nauſhon-Iſland*, and on *Nennemeſſet-Iſland*, and ſeveral ſmall Iſlands contiguous, ſituated in the County of *Dukes'-County*.

[This Act paſſed *January* 30, 1790.]

An ACT in Addition to an Act, entitled, "An Act to prevent the Deſtruction, and to regulate the Catching of the Fiſh called Salmon, Shad and Alewives, in the Rivers and Streams in the Counties of *Cumberland* and *Lincoln*, and to repeal all Laws heretofore made for that Purpoſe.

[This Act paſſed *February* 2, 1790.]

An ACT for repealing an Act, entitled, "An Act eſtabliſhing Naval Offices in this Commonwealth, and for the repealing Laws made for that Purpoſe," and for repealing the ſeveral Laws regulating the Fees and Forms in that Office.

[This Act paſſed *February* 6, 1790.]

An ACT aſcertaining the Boundary Line between the Towns of *Egremont* and *Alford*, in the County of *Berkſhire*. [This Act paſſed *February* 6, 1790.]

An ACT for repealing an Act made and paſſed in the Year of our LORD One thouſand ſeven hundred and eighty-four, entitled, "An Act in Addition to an Act for incorporating *Jonathan Gardner*, jun. and others therein named, into a Society by the Name of *The Marine Society at Salem*, in the County of *Eſſex*, in the Province of the *Maſſachuſetts-Bay*, in *New-England*;" and alſo for altering the ſaid Act of Incorporation.

[This Act paſſed *February* 8, 1790.]

An ACT to empower the Proprietors of the South Meeting-Houſe in *Salem*, where the Reverend *Daniel Hopkins* officiates, to raiſe Money to defray Miniſterial and other neceſſary Charges.

[This Act paſſed *February* 15, 1790.]

An ACT repealing an Act paſſed in *July*, in the Year of our LORD One thouſand ſeven hundred and forty-one, entitled, "An Act to prevent unneceſſary Petitions to the Great and General Court."

[This Act paſſed *February* 17, 1790.]

An ACT for incorporating that Part of the Town of *Swanzey*, known by the Name of *Shewamet*, in the County of *Briſtol*, into a ſeparate Town by the Name of *Somerſet*.

[This Act paſſed *February* 20, 1790.]

An ACT for regulating the Manufacture of Nails made for Sale or Exportation, within this Commonwealth, and repealing all Laws heretofore made for that Purpoſe.

[This Act paſſed *Feb.* 22, 1790. Repealed *March* 10, 1791.]

An ACT to explain a certain Clauſe in an Act paſſed in the Year of our LORD One thouſand ſeven hundred and eighty-three, entitled, "An Act to empower the Proprietors of the Meeting-Houſe in the Eaſt Pariſh in *Salem* to raiſe Money by a Tax on the Pews and Seats in the ſaid Meeting-Houſe, to ſupport a Colleague to their preſent Miniſter, and making Proviſion for the Diſſolution of the ſaid Pariſh."

[This Act paſſed *February* 22, 1790.]

An ACT to ſet off *John Tuller* from the Town of *Sheffield*, in the County of *Berkſhire*, and annex him to the Town of *Egremont*.

[This Act paſſed *February* 22, 1790.]

Addit. Act, Mar. 4, 1800.

An ACT to prevent the Deſtruction of the Fiſh called Alewives in *Taunton Great River* (ſo called) in the County of *Briſtol*, and to regulate the Catching of ſaid Fiſh therein for the future.

[This Act paſſed *February* 22, 1790.]

An ACT in Addition to, and for the Explanation of an Act paſſed in the Year of our LORD One thouſand ſeven hundred and ſeventy-nine, entitled, "An Act for ſetting off a Number of the Inhabitants of the Town of *Methuen*, in the County of *Eſſex*, into a ſeparate Pariſh."

[This Act paſſed *February* 22, 1790.]

An

An ACT for incorporating certain Perſons for the Purpoſe of erecting and maintaining ſeveral Booms in *Merrimack-River*, and for ſtopping and ſecuring the Logs and Lumber that ſhall be drifted down the ſaid River.

[This Act paſſed *February* 22, 1790.]

An ACT to provide for the ſafe Keeping all Priſoners committed under the Authority of the United States in the ſeveral Gaols within this Commonwealth.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the keepers of the ſeveral gaols within this Commonwealth ſhall, under the like penalties as by law are provided for the cuſtody and ſafe keeping the priſoners thereof, take cuſtody of, and ſafely keep all priſoners committed, under the authority of the United States, until they ſhall be diſcharged by due courſe of the laws thereof. Manner of ſecuring priſoners committed under the authority of the United States.

SECT. 2. *And be it further enacted*, That the ſeveral Treaſurers of the reſpective counties within this Commonwealth, and their ſucceſſors, be and they are hereby authorized and directed, to receive for the uſe of their reſpective counties, to defray the county charges ariſing therein, all ſuch monies as the United States have agreed to pay for the uſe and keeping of ſuch gaols, and to account for the ſame according to law. Treaſurer directed to receive monies.

[This Act paſſed *February* 26, 1790.]

An ACT empowering the Town of *Pembroke* to regulate and order the Taking and Diſpoſing of the Fiſh called Alewives, within the Limits of the ſaid Town.

[This Act paſſed *February* 26, 1790.]

An ACT for eſtabliſhing Salaries of a fixed and permanent Value, for the Juſtices of the Supreme Judicial Court.

WHEREAS the Conſtitution of this Commonwealth provides, that an eſtabliſhment ſhould be made for an honourable ſtated ſalary, of a fixed and permanent value, for the Juſtices of the Supreme Judicial Court; and whereas the ſalary heretofore eſtabliſhed for the ſaid Juſtices, is found inadequate for their honourable ſupport: Preamble.

SECT.

Annual salaries eſtabliſhed.

SECT. 1. *Therefore, be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That the ſum of *Three Hundred and Seventy Pounds* be eſtabliſhed as the annual ſalary of the Chief Juſtice of the Supreme Judicial Court, for the time being; and that the ſum of *Three Hundred and Fifty Pounds* be eſtabliſhed as the annual ſalary of each of the other Juſtices of the Supreme Judicial Court; the ſame to be paid in quarterly payments to the ſaid Juſtices reſpectively, out of the treaſury of this Commonwealth, the firſt quarter to be conſidered as having commenced on the firſt day of *January*, in the year of our Lord one thouſand ſeven hundred and ninety; and the ſaid ſums to be conſidered as adequate ſalaries for the ſervices of their office, without the addition of any fee or perquiſite whatever.

Former Acts repealed.

SECT. 2. *And be it further enacted*, That an Act paſſed in the year of our Lord one thouſand ſeven hundred and eighty-one, entitled, "An Act for eſtabliſhing ſalaries of a fixed and permanent value, for the Juſtices of the Supreme Judicial Court," be and the ſame hereby is repealed.

[This Act paſſed *February* 27, 1790.]

An ACT making Compenſation to the Attorney-General of this Commonwealth for his Services.

Annual ſalary of the Attorney-General.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That from and after the paſſing this Act, there ſhall be allowed and paid out of the treaſury of this Commonwealth, annually, the ſum of *Three Hundred Pounds*, lawful money, to the Attorney-General, in full compenſation for his ſervices, to be paid in quarterly payments, as the ſame ſhall become due.

Fees of the Attorney-General.

--To be by him accounted for.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That in all bills of coſts, in criminal proſecutions before the Supreme Judicial Court in this Commonwealth, the ſum of *Fifteen Shillings* ſhall be taxed for the fees of the Attorney-General, without any allowance of travel; and all fees thus received by the ſaid Attorney-General ſhall be accounted for by him, annually, with the Treaſurer of this Commonwealth.

[This Act paſſed *February* 20, 1790.]

An ACT authorizing Judges of Probate to diſmiſs Guardians from their Guardianſhip in certain Caſes.

Preamble.

WHEREAS the ſeveral Judges of the Probate of Wills in this Commonwealth are by law authorized to appoint guardians to minors in certain caſes, perſons who ſpend their

their eſtates by exceſſive drinking, idleneſs or debauchery, idiots, *non-compos-mentis* or lunatic perſons; and doubts have ariſen whether the ſaid Judges of Probate have any authority to diſplace ſuch guardians in any caſes whatever, which may operate to the diſadvantage not only of the bondſmen, but of the ward alſo:

Judge of Probate authorized to diſmiſs guardians, in certain caſes.

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That from and after the paſſing this Act, each and every Judge of Probate within this Commonwealth be and hereby is fully authorized to diſmiſs any ſuch guardian, appointed by himſelf or his predeceſſor in that office, whenever it may appear to the ſaid Judge that neceſſity or expediency may require the ſame, and to appoint ſome other perſon guardian in his place. *Provided*, That no ſuch guardian ſhall be diſmiſſed, as aforeſaid, from his guardianſhip, before he ſhall have had notice, in writing, given him by ſuch Judge, fourteen days before the time of hearing, to appear and ſhew cauſe why he ſhould not be ſo diſmiſſed.

Proviſo.

[This Act paſſed *March* 1, 1790.]

An ACT for raiſing the Sum of *Ten Thouſand Pounds* by Lottery, for the Uſe of this Commonwealth.

[This Act paſſed *March* 2, 1790.]

An ACT to raiſe a public Revenue by Exciſe, and to regulate the Collection thereof.

[This Act paſſed *March* 3, 1790.]

An ACT for apportioning and aſſeſſing a Tax of *Twenty-Five Thouſand Three Hundred and Sixty Pounds Three Shillings and Five Pence*, to anſwer the Exigencies of Government; and alſo *Four Thouſand One Hundred Fifty-Five Pounds Twelve Shillings*, to replace the ſame Sum drawn out of the Treaſury to pay the Members of the Houſe of Repreſentatives for their Attendance the two laſt Seſſions of the General Court; alſo for aſſeſſing a further Sum of *Eleven Pounds Fourteen Shillings*, ſet to the Town of *Bowdoin*; and the Sum of *Thirty-Six Pounds Nineteen Shillings and Eight Pence*, ſet on the Lands of the Heirs and Aſſigns of the late Brigadier *Waldo*.

[This Act paſſed *March* 3, 1790.]

An

An ACT empowering Commiſſioners appointed to receive and examine the Claims of the Creditors to inſolvent Eſtates, to require of, and adminiſter to them an Oath or Affirmation, the better to diſcover the Truth of their Claims.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That from and after the paſſing of this Act, the Commiſſioners who are or ſhall be appointed by any Judge of Probate, to receive and examine the claims of the creditors to the eſtate of any perſon deceaſed, when repreſented inſolvent, ſhall be and are hereby authorized and empowered to examine, by the oath or affirmation of the creditor, the truth of any claims preſented; and to that end, the ſaid Commiſſioners, when they are ſitting by virtue of ſuch commiſſion, and when it ſhall be adjudged expedient by a majority of them, may require of ſuch creditor an oath, or, being of the perſuaſion called Quakers, an affirmation, to be adminiſtered by any one of the ſaid Commiſſioners in manner following, *that is to ſay:*

Commiſſioners empowered to adminiſter oaths.

Form of the oath.

YOU do ſwear (or affirm, as the caſe may be) that you will make true anſwers to the queſtions which ſhall be aſked you by the Commiſſioners relative to your claim againſt the eſtate of (naming the deceaſed inſolvent debtor) now under conſideration. *So help you GOD,* (or, this you do under the pains and penalties of perjury, as the caſe may be.)

And thereupon ſuch Commiſſioners may inquire of the truth of any writing, demand, or the charges in any accounts exhibited as a claim againſt ſuch inſolvent eſtate, and whether the ſame and every part of ſuch claim remains actually due and unpaid, and may make ſuch other queſtions relative thereto, as ſhall be material and tending to diſcover the truth of ſuch claim.

SECT. 2. *And be it further enacted by the authority aforeſaid,* That any perſon who ſhall take ſuch oath or affirmation, having been adminiſtered as aforeſaid, and ſhall thereupon wilfully and corruptly make any falſe anſwer or anſwers to any queſtion or queſtions material for the determination of the truth of the claim, in proof of which ſuch oath or affirmation ſhall have been taken, and ſhall be thereof duly convicted, ſhall be adjudged guilty of the crime of perjury, and ſhall be liable to any and all of the pains and penalties which are or ſhall be by law inflicted for the puniſhment of ſuch crime.

Penalty in caſe of perjury.

[This Act paſſed *March* 3, 1790.]

An

An ACT to regulate the Catching of Salmon, Shad and Alewives, and to prevent Obſtructions in *Merrimack River*, and in the other Rivers and Streams running into the ſame within this Commonwealth, and for repealing ſeveral Acts heretofore made for that Purpoſe.

[This Act paſſed *March* 4, 1790.]

An ACT in Addition to an Act, entitled, "An Act for the better regulating of the Indian, Mulatto and Negro Proprietors and Inhabitants of the Plantation called *Marſhpee*, in the County of *Barnſtable*.

Preamble.

WHEREAS it appears that an Act, entitled, "An Act for the regulation of the Indian, Mulatto and Negro proprietors and inhabitants of the plantation called *Marſhpee*, in the county of *Barnſtable*," proves inſufficient for the well regulating ſaid plantation, in many inſtances:

Guardians authorized to appoint officers.

SECT. 1. *Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the overſeers, guardian or guardians of the ſaid plantation, for the time being, ſhall have full power and authority to appoint, annually, one Conſtable, two Fence-Viewers, two Surveyors of Highways, two Hogreeves, and one Warden, being all inhabitants of the ſaid plantation; whoſe duty it ſhall be, to carry into execution the laws of the Commonwealth within the ſaid plantation, as fully as the like officers choſen by the ſeveral towns in this Commonwealth are by law enabled to do within their reſpective towns; and ſaid officers ſhall be ſworn before ſome Juſtice of the Peace in the ſaid county, faithfully to perform the duties required of them in their reſpective offices.

And whereas ſeveral perſons have entered upon the lands belonging to the ſaid proprietors, and ſet up houſes upon the ſame, without paying rents therefor, to the great injury of ſaid proprietors:

Reſidents refuſing to compenſate for privileges—to be removed at the will of the guardians.

SECT. 2. *Be it further enacted*, That any perſon or perſons, not being a proprietor of ſaid plantation, who ſhall enter upon ſaid plantation to reſide there, or who are now reſidents there, who ſhall refuſe to pay to the guardian or guardians of ſaid plantation, for the benefit of the proprietors thereof, ſuch ſum or ſums of money, or the value thereof in ſome other way, for the rents of ſuch lands as they reſpectively improve, as, in the opinion of the ſaid guardian or guardians, ſhall be juſt and equitable; every perſon ſo refuſing ſhall, if required by the ſaid guardian or guardians, be removed from the ſaid plantation, by warrant, to be iſſued by ſome Juſtice of the Peace for the

the said county (upon complaint of said guardian or guardians.)

Proviso. *Provided however*, That such complaint shall appear reasonable to the Justice to whom the complaint is made; and the said warrant shall be directed to the Constable of said plantation; and if the person so removed shall again return, with intent to reside there, he shall forfeit and pay for each offence the sum

Forfeiture. of *Five Pounds*, to the use of said proprietors, to be recovered by action of debt in any Court proper to try the same; which action may be brought in the name or names of the guardian or guardians of said plantation.

Preamble. And whereas many of the Indian, Mulatto and Negro inhabitants who occupy lands within the plantation have no other title to the same but what they derive from grants or assignments made to them by the original proprietors; and it being necessary clearly to ascertain who are the proprietors of said plantation:

Guardians to keep records of confirmed proprietors. SECT. 3. *Be it further enacted*, That the guardian or guardians shall make out a fair record of all the names of the proprietors of said plantation who usually reside within the same; and in all cases where the title of proprietorship shall appear doubtful, the guardian or guardians shall examine into the same, and if they find the claim of such Indian, Mulatto or Negro, either by descent, marriage, or otherwise, well founded (the Overseers confirming the same) his name shall be entered on said record; and such Indian, Mulatto or Negro shall be considered as a proprietor of said plantation to all intents and purposes.

Residents who are not proprietors, liable to be removed. SECT. 4. *And be it further enacted*, That those who are not proprietors in their own rights or in the right of their wives, or who shall not be admitted as proprietors by the overseers, guardian or guardians, in manner aforesaid, shall not be deemed or reputed inhabitants of said plantation, but shall, at all times, be liable to be removed, together with their families, by warrant, in manner aforesaid, out of said plantation; any thing in the Act, to which this is an addition, to the contrary notwithstanding.

[This Act passed *March* 4, 1790.]

An ACT for repealing the last Paragraph of an Act passed in the Year of our LORD One thousand seven hundred and eighty-four, entitled, "An Act for erecting a District in the County of *Suffolk* by the Name of *Dover*," and for annexing the said District of *Dover*, with the Town of *Medfield*, for the Purpose of choosing Representatives for the future.

[This Act passed *March* 4, 1790.]

An

An ACT for ſetting off *Benjamin Chaſe*, his Family and Eſtate, from the Town of *Freeport*, and annexing them to the Town of *Brunſwick*.

[This Act paſſed *March* 4, 1790.]

An ACT granting a Lottery for the Purpoſe of ſecuring and fortifying the Beach on the ſouthweſterly Side of the Harbour of *Marblehead*, and appointing Truſtees to apply the Proceeds.

[This Act paſſed *March* 4, 1790.]

An ACT for naturalizing *John Jarvis*, and others therein named.

[This Act paſſed *March* 6, 1790.]

An ACT limiting the Operation of Lotteries.

[This Act paſſed *March* 6, 1790.]

An ACT authorizing particular Perſons, in certain Caſes, to proſecute and defend Suits at Law.

Preamble.

WHEREAS it has been repreſented to this Legiſlature, that doubts have ariſen in ſome of the Courts of Judicature within this Commonwealth, reſpecting the right of perſons to conſtitute Attornies in certain caſes, other than thoſe which have been admitted in the uſual form preſcribed by law; for the removal of which doubts,

Citizens authorized to defend their own ſuits.

Be it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That every citizen be and hereby is authorized to appear in any Court, and before any Tribunal, Judge, Juſtice of the Peace or Magiſtrate, to proſecute and defend his ſuit or action, by himſelf or by any perſon of a decent and good moral character, whom he ſhall call to his aid or appoint for that purpoſe; and that any perſon of ſuch decent and good moral character, who ſhall produce in Court a power, or letter of attorney, ſpecially for that purpoſe, from any perſon whomſoever, ſhall have full authority, though his principal be abſent, to proſecute and defend any ſuit or matter, wherein his principal ſhall be concerned, to final judgment and execution; and to plead, implead or manage the ſame caſe as fully as if ſuch perſon, ſo authorized, was an Attorney of ſuch Court, and admitted and ſworn in uſual form as preſcribed by law, and agreeably to the rules of ſuch Court.

[This Act paſſed *March* 6, 1790.]

An

An ACT to repeal an Act made and passed *March* the seventh, Seventeen hundred and eighty-one, entitled, "An Act to regulate the Sale of Goods at Public Vendue, and to limit the Number of Auctioneers," and to regulate the Sale of Goods by Auction.

[This Act passed *March* 9, 1790. Repealed *June* 16, 1795.]

An ACT altering the Time of holding the Supreme Judicial Court at *Salem*, within and for the County of *Essex*.

Preamble.

WHEREAS the Supreme Judicial Court holden at *Cambridge*, within and for the county of *Middlesex*, on the last Tuesday of *October* annually, hath not sufficient time to decide the several causes that come before that Court at those terms, as by law the same Court is to be holden at *Salem*, within and for the county of *Essex*, the next succeeding week: Wherefore, that the said Court may have sufficient time to decide the several causes aforesaid,

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the Supreme Judicial Court which, by law, is now to be holden at *Salem*, within and for the county of *Essex*, on the first Tuesday of *November* annually, be hereafter holden at *Salem*, within and for the county of *Essex*, on the second Tuesday of *November* annually; any law to the contrary notwithstanding.

Time of holding S. J. C. at *Salem*.

[This Act passed *June* 4, 1790.]

An ACT for incorporating the southerly Part of the Town of *Plympton*, in the County of *Plymouth*, into a Town by the Name of *Carver*.

[This Act passed *June* 9, 1790.]

An ACT to incorporate a Society by the Name of *The Episcopal Protestant Society in Marshfield*.

[This Act passed *June* 9, 1790.]

An ACT for granting to the United States of *America* the several public Light-Houses within this Commonwealth.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*,

ſame, That there be and hereby are granted unto the United States of *America* the Light-Houſe ſituate on *Light-Houſe-Iſland*, in the harbour of *Boſton*, together with the lands and tenements thereunto belonging, the property of this Commonwealth, with the juriſdiction of the ſame; alſo, the two Light-Houſes ſituate on *Thacher's-Iſland*, ſo called, in the county of *Eſſex*, together with the lands and tenements thereunto belonging, the property of this Commonwealth, with the juriſdiction of the ſame; alſo, the two Light-Houſes ſituate on the north end of *Plumb-Iſland*, in the county of *Eſſex*, together with the lands and tenements thereunto belonging, the property of this Commonwealth, with the juriſdiction of the ſame; alſo, the Light-Houſe ſituate on *Portland-Head*, in the county of *Cumberland*, together with the lands and tenements thereunto belonging, with the juriſdiction of the ſame; alſo, all the right, title and intereſt which this Commonwealth has in the Light-Houſe ſituate on the *Gurnet-Head*, in the county of *Plymouth*, and in the lands and tenements thereunto belonging, with the juriſdiction of the ſame; alſo the Light-Houſe ſituate on *Sandy-Point*, ſo called, in the county of *Nantucket*, together with the lands and tenements thereunto belonging, the property of this Commonwealth, with the juriſdiction of the ſame; and the ſeveral Light-Houſes aforeſaid, together with the lands and tenements thereunto ſeverally belonging, the property of this Commonwealth, with the juriſdiction of the ſame, are hereby ceded to and veſted in the United States of *America*; and alſo the four following buoys at the mouth of *Merrimack-River*, one on the *Hum-Sands*; another on the *Sunken-Rocks*; another on the *Ganway-Rock*, and the fourth on the *Half-Tide-Rocks*, together with the Beacon, on the ſpit of ſand, near the Light-Houſe, in the harbour of *Boſton*.

Light-Houſes granted to the United States.

Buoys.

SECT. 2. *Provided nevertheleſs, and be it further enacted*, That if the United States ſhall, at any time hereafter, neglect to keep lighted, and in repair, any one or more of the Light-Houſes aforeſaid; that then the grant of ſuch Light-Houſe or Light-Houſes, ſo neglected, ſhall be void and of no effect:—*Provided alſo*, That all civil and criminal proceſſes, iſſued under the authority of this Commonwealth or any officers thereof, may be executed on any of ſaid lands or in any of ſaid buildings, in the ſame way and manner as if the juriſdiction had not been ceded as aforeſaid:—*And provided further*, That if the United States ſhall, at any time hereafter, make any compenſation to any one of the United States for the ceſſion of any Light-Houſe heretofore, or which may be hereafter made to the United States; that then, like compenſation be made to this Commonwealth by the United States, for the ceſſion of the Light-Houſes aforeſaid, in proportion to their reſpective values.

Proviſos.

[This Act paſſed *June* 10, 1790.]

An

An ACT to empower the Town of *Fryeburg* to exchange Part of the Parſonage Land for other Land in ſaid Town.

[This Act paſſed *June* 14, 1790.]

An ACT to prevent the Deſtruction of Oyſters in the ſeveral Places therein mentioned.

[This Act paſſed *June* 17, 1790. Repealed *Feb.* 26, 1796.]

An ACT in Addition to an Act, entitled, "An Act to ſet off to the Patentees and other Purchaſers certain Lands on the Iſland of *Chapequiddick*, in the County of *Dukes'-County*, and finally to adjuſt and determine all Diſputes between the ſaid Patentees and other Purchaſers, and the Indians on the ſaid Iſland; and to prevent Cattle, Horſes, Sheep, Goats and Swine from going at Large on the ſaid Iſland at certain ſeaſons of the Year."

[This Act paſſed *June* 19, 1790.]

* Altered as to *Hancock* and *Waſhington*, *Mar.* 9, 1791, *Cumberland*, *June* 11, 1791, *Plymouth*, *June* 15, 1791, *Berkſhire*, *June* 18, 1791, *Waſhington*, *June* 26, 1792, *Worceſter*, *Mar.* 2 and 28, 1793, *Eſſex*, *Mar.* 12, 1793, *Hampſhire*, *Feb.* 26, 1794, *Briſtol*, *Feb.* 26, 1794, *Middleſex*, *Feb.* 26, 1795, *Lincoln*, *Feb.* 27, 1795, *Middleſex*, *Hampſhire*, *Briſtol*, *Worceſter* and *Berkſhire*, *Feb.* 6, 1796, *Cumberland*, *Nov.* 24, 1796, *Hancock*, *Mar.* 1, 1798, *Waſhington*, *Mar.* 1, 1799, *Lincoln*, *Feb.* 4, 1800.

An ACT for the Preſervation and Increaſe of the Fiſh called Alewives, in *Acqueſnet-River*, in the Town of *New-Bedford*, in the County of *Briſtol*, and for regulating the taking the ſaid Fiſh in the ſaid River.

[This Act paſſed *June* 19, 1790.]

An ACT to ſet off *John Tippet* from the ſecond to the firſt Pariſh in *Methuen*.

[This Act paſſed *June* 21, 1790.]

An ACT for determining at what Times and Places the ſeveral Courts of General Seſſions of the Peace and the Courts of Common Pleas ſhall be holden, within and for the ſeveral Counties within this Commonwealth, and for repealing all Laws heretofore made for that Purpoſe.*

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That from and after the firſt day of *Auguſt* next, all the laws heretofore enacted and now in force, determining the times

times and places for holding the ſeveral Courts of General Seſſions of the Peace and Courts of Common Pleas within and for the ſeveral counties in this Commonwealth, ſo far as reſpects the times and places for holding the ſaid Courts, be and they hereby are repealed.

SECT. 2. *And be it further enacted by the authority aforeſaid*, That the times and places for holding the Courts of General Seſſions of the Peace and Courts of Common Pleas, within and for each county in this Commonwealth, annually, ſhall, from and after the firſt day of *Auguſt* next, be as follows, *viz.*

Times and places for holding Courts.

Within and for the county of *Suffolk*---at *Boſton*, on the firſt Tueſday of *July*, on the firſt Tueſday of *January*, on the firſt Tueſday in *October*, and on the third Tueſday in *April*.

Within and for the county of *Eſſex*---at *Ipſwich*, on the firſt Tueſday of *April*; at *Salem*, on the ſecond Tueſday in *July*; and at *Newbury-Port*, the laſt Tueſday of *September*.

Within and for the county of *Middleſex*---at *Cambridge*, on the laſt Tueſday of *November*, and at *Concord*, on the third Tueſday of *March*, and the ſecond Tueſday in *September*.

Within and for the county of *Hampſhire*---at *Springfield*, on the third Tueſday of *January*; at *Northampton*, on the firſt Tueſday of *September*, and the third Tueſday in *May*.

Within and for the county of *Plymouth*---at *Plymouth*, on the ſecond Tueſday in *April*, the laſt Tueſday of *July*, and the third Tueſday of *November*.

Within and for the county of *Barnſtable*---at *Barnſtable*, on the firſt Tueſday of *April*, and the firſt Tueſday in *November*.

Within and for the county of *Briſtol*---at *Taunton*, on the ſecond Tueſday of *March*, and the ſecond Tueſday of *September*.

Within and for the county of *York*---at *York*, on the third Tueſday of *April*; at *Waterborough*, on the fourth Tueſday in *Auguſt*, and at *Biddeford*, on the ſecond Tueſday of *November*.

Within and for the county of *Dukes'-County*---at *Edgarton*, on the third Tueſday of *April*; and at *Tiſbury*, on the laſt Tueſday of *October*.

Within and for the county of *Nantucket*---at *Sherburne*, on the laſt Tueſday of *March*, and on the firſt Tueſday of *October*.

Within and for the county of *Worceſter*---at *Worceſter*, on the Tue day next preceding the laſt Tueſday of *March*, on the laſt Tueſday in *Auguſt*, and on the firſt Tueſday in *December*.

Within and for the county of *Cumberland*---at *Portland*, on the laſt Tueſday of *May*, the firſt Tueſday in *January*, and the third Tueſday in *October*.

Within and for the county of *Lincoln*---at *Hallowell*, on the ſecond Tueſday in *January*; at *Pownalborough*, on the firſt Tueſday in *June*, and at *Waldoborough*, on the ſecond Tueſday of *September*.

Within and for the county of *Berkſhire*---at *Lenox*, on the ſecond Tueſday in *September*, and the firſt Tueſday of *February*.

Within and for the county of *Hancock*---at *Penobſcot*, on the third Tueſdays of *March* and *September*.

Within and for the county of *Waſhington*---at *Machias*, on the fourth Tueſdays of *March* and *September*.

All actions pending—how determined.

SECT. 3. *And be it further enacted*, That all appeals already made, recognizances taken, or that may, before the aforeſaid firſt day of *Auguſt* next, be made or taken, to any Courts of General Seſſions of the Peace, and all actions already commenced, or that may be commenced, and all proceſſes returned, or that may be returnable before the aforeſaid firſt day of *Auguſt*, and all appeals claimed, or which may be claimed, and all actions pending at any Court of Common Pleas, which, before the operation of this Act, ſhould have been holden at any other time or place than thoſe in this Act affixed for holding ſaid Courts; ſhall be returnable to, entered, made, proceeded on, tried and determined at the Courts next to be holden in each county, after ſaid firſt day of *Auguſt*, agreeably to the true intent of ſuch writ, proceſs, recognizance or appeal.

Proviſo.

Provided nevertheleſs, That this Act ſhall not begin to operate, with reſpect to Courts to be held in the county of *York*, until the firſt day of *January* next; any thing herein to the contrary notwithſtanding.

[This Act paſſed *June* 21, 1790.]

An ACT for incorporating a Number of the Inhabitants of the Towns of *New-Glouceſter* and *Gray*, in the County of *Cumberland*, into a diſtinct and ſeparate religious Society.

[This Act paſſed *June* 23, 1790.]

An ACT in Addition to an Act made and paſſed *February* the fourteenth, One thouſand ſeven hundred and eighty-nine, entitled, "An Act for rendering Proceſſes in Law leſs expenſive."

[This Act paſſed *June* 24, 1790. Expired.]

An ACT for the Relief of the Town of *Charleſtown*.

[This Act paſſed *June* 24, 1790.]

An ACT to repeal, in caſe of the Aſſumption of the State Debts by the Congreſs of the United States, an Act, entitled, "An Act to raiſe a public Revenue by Exciſe, and to regulate the Collection thereof," paſſed the third Day of *March*, *Anno Domini* Seventeen hundred and ninety.

[This Act paſſed *June* 24, 1790.]

An ACT to repeal certain Parts of an Act, entitled, "An Act to raise a public Revenue by Excise, and to regulate the Collection thereof," passed the third Day of *March* last.

[This Act passed *September* 17, 1790.]

An ACT to set off *Peter Larkin*, with his Family and Estate, from the Town of *Lancaster* to the District of *Berlin*. [This Act passed *February* 8, 1791.]

An ACT to repeal, in Part, an Act, entitled, "An Act to prevent the Destruction of Fish, called Shad and Alewives, in *Ten* and *Three Miles Rivers*, in the County of *Bristol*.

[This Act passed *February* 11, 1791.]

An ACT to incorporate the Plantation of *Cambden*, in the County of *Hancock*, into a Town by the Name of *Cambden*.

[This Act passed *February* 17, 1791.]

An ACT to incorporate and establish a Society by the Name of *The Humane Society of the Commonwealth of Massachusetts*.

[This Act passed *February* 23, 1791.]

An ACT to suspend, in certain Cases, the Operation of an Act passed on the thirteenth Day of *February*, *Anno Domini* One thousand seven hundred and eighty-seven, entitled, "An Act for the Limitation of Personal Actions, and for avoiding Suits at Law."

Preamble. WHEREAS the operation of the said Act for the limitation of personal actions, and for avoiding suits at law, may defeat of their just demands many creditors, unless a longer time is allowed for commencing and sueing certain actions therein mentioned, than is provided by said Act:

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That the said Act, passed on the said thirteenth day of *February*,

Act suspended in certain cases.

shall be so far suspended, that all actions of account, and all actions of debt, and upon the case for or upon any promise, lending or contract, which by the said Act are limited, so as they cannot be commenced and sued after the first day of *June* next, shall and may be commenced and sued within the term of two years, next after the first day of *June* aforesaid; any thing in the said Act, passed on the thirteenth day of *February* aforesaid, to the contrary hereof notwithstanding.

Town-Clerks; ——their duty.

SECT. 2. *And be it enacted by the authority aforesaid*, That the Secretary shall forthwith cause this Act to be printed and sent to the Clerk of each town and district in this Commonwealth; and such Clerks are hereby required to cause the said Act, respecting the limitation of personal actions, and this Act, to be publickly read at the opening of the annual meetings of the said towns or districts, for the choice of town or district officers, and also at their annual meetings respectively, for the choice of Representatives, until the expiration of two years from the said first day of *June* next.

[This Act passed *February* 23, 1791.]

An ACT to set off the northwestwardly Corner of *Framingham*, in the County of *Middlesex*, and to annex the same to the Town of *Marlborough*, in the same County.

[This Act passed *February* 23, 1791.]

An ACT for the more effectual carrying into Execution the Laws regulating the Alewive Fishery in *Mattepciset-River*, in the Town of *Rochester*.

[This Act passed *February* 23, 1791.]

An ACT to incorporate the Plantation of *Kenduskee* into a Town by the Name of *Bangor*.

[This Act passed *February* 25, 1791.]

An ACT setting off Part of the County of *Hancock*, and annexing it to the County of *Lincoln*.

Boundaries.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That all the lands contained within the following bounds, namely, Beginning at *Little-Duck-Trap*, so called, thence running

ning northweſterly on the northeaſterly line of the town of *Cambden*, to the northerly corner of ſaid *Cambden*; thence continuing on the ſame courſe, with the northeaſterly line of ſaid *Cambden*, until it interſects the dividing line between the counties of *Lincoln* and *Hancock*; thence running ſoutherly to *Union*; thence ſoutheaſterly on the eaſt line of *Union*, *Warren* and *Thomaſtown*, to *Penobſcot-Bay*; thence northerly by ſaid bay to *Little-Duck-Trap*, the firſt mentioned bound, with all the inhabitants thereon, ſhall be and hereby are ſet off from the county of *Hancock*, and annexed to the county of *Lincoln*. Part of *Hancock* annexed to *Lincoln*.

Provided nevertheleſs, That there ſhall be the ſame proceedings and doings with reſpect to all actions and ſuits commenced, or which may be commenced, and all crimes committed, or which may be committed, and all aſſeſſments made, before the firſt day of *May* next, which would have been had if this Act had not paſſed. Proviſo.

SECT. 2. *And it is further enacted*, That the foregoing Act ſhall be in force from and after the firſt day of *May* next.

[This Act paſſed *March* 3, 1791.]

An ACT to eſtabliſh an Academy in the Town of *Hallowell* by the Name of *Hallowell Academy*.

[This Act paſſed *March* 5, 1791.]

An ACT for incorporating a certain Part of the Town of *Lee* into a School Diſtrict by the Name of *The Hopland School Diſtrict*.

[This Act paſſed *March* 7, 1791.]

An ACT repealing Part of an Act, entitled, "An Act providing a ſpeedy Method for doing Juſtice when, through Miſtake, Executions are levied on Real Eſtate not belonging to the Debtors." June 14, 1785.

BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That the proviſionary clauſe in ſaid Act, declaring that no application by any creditor ſhall be ſuſtained after the expiration of two years, from the time of extending and levying any execution, through miſtake, upon eſtate that did not belong to the debtor, be and hereby is repealed and made null and void. Clauſe repealed.

[This Act paſſed *March* 7, 1791.]

An

An ACT in Addition to, and to amend and explain an Act paſſed the ſeventh Day of *July*, Seventeen hundred and eighty-four, entitled, "An Act for erecting a Diſtrict in the County of *Suffolk* by the Name of *Dover*."

[This Act paſſed *March* 7, 1791.]

An ACT for regulating the Fiſhery in *Connecticut-River*.

[This Act paſſed *March* 7, 1791.]

An ACT to prevent Damage being done to the Beach and Meadows on the ſouth Side of the Town of *Edgarton*, in the County of *Dukes'-County*, and to the Creeks adjoining thereto, by Cattle, Sheep and Horſes paſſing over the ſame; and for preſerving the Fiſh in the ſaid Creeks.

[This Act paſſed *March* 7, 1791.]

An ACT for incorporating a Number of Inhabitants of the Town of *Windham*, in the County of *Cumberland*, into a religious Society.

[This Act paſſed *March* 7, 1791.]

An ACT for incorporating a Number of the Inhabitants of the Town of *Gorham*, in the County of *Cumberland*, into a diſtinct Society.

[This Act paſſed *March* 7, 1791.]

An ACT for incorporating the Members of the Epiſcopal Church in the Town of *Portland*, into a religious Society.

[This Act paſſed *March* 7, 1791.]

An ACT to incorporate a Number of the Inhabitants in the Town of *Taunton* into a Pariſh by the Name of *The Firſt Congregational Society in the Town of Taunton*.

[This Act paſſed *March* 8, 1791.]

An ACT appointing Commiſſioners, on the Part of this Commonwealth, for aſcertaining the Boundary Line between this Commonwealth and the State of *Connecticut*.

[This Act paſſed *March* 8, 1791.]

An ACT appointing Commiſſioners, on the Part of this Commonwealth, for aſcertaining the Boundary Line between this Commonwealth and the State of *Rhode-Iſland*.

[This Act paſſed *March* 8, 1791.]

An ACT for regulating the Alewive Fiſhery in the Town of *Bridgewater*, in the County of *Plymouth*, and for repealing all Laws heretofore made for that Purpoſe.

[This Act paſſed *March* 9, 1791. Repealed *Feb.* 10, 1797.]

An ACT for altering the Times for holding the Courts of General Seſſions of the Peace and Courts of Common Pleas, now required by Law to be holden annually in the Month of *March*, in the Counties of *Hancock* and *Waſhington*.

Times and places for holding Courts.

BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That from and after the firſt day of *May* next, the Courts of General Seſſions of the Peace and Courts of Common Pleas, which are now by law to be holden at *Penobſcot*, in and for the county of *Hancock*, on the third Tueſday in *March* annually, ſhall be holden at the ſame place on the third Tueſday in *April* annually; and that the Courts aforeſaid, which are now by law to be holden at *Machias*, in and for the county of *Waſhington*, on the fourth Tueſday in *March* annually, ſhall be holden at *Machias* aforeſaid, on the fourth Tueſday in *April* annually, any law to the contrary notwithſtanding.

[This Act paſſed *March* 9, 1791.]

An ACT in Addition to an Act paſſed in the Year of our LORD One thouſand ſeven hundred and eighty-nine, entitled, "An Act determining what Tranſactions ſhall be neceſſary to conſtitute the Settlement of a Citizen in any particular Town or Diſtrict."

[This Act paſſed *March* 9, 1791. Repealed *Feb.* 11, 1794.]

Mar. 10, 1784. An ACT in Addition to, and to explain an Act passed the tenth Day of *March*, in the Year of our LORD One thousand seven hundred and eighty-four, entitled, "An Act for the better managing of Lands, Wharves, and other real Estate lying in common."

Preamble. WHEREAS doubts have arisen upon the Act, entitled, "An Act for the better managing of lands, wharves, and other real estate lying in common," whether those who have last held and improved in common, and as a proprietary, any lands, wharves, or other real estate, are and shall, after the final division of the same, be liable for any debts which had been, or shall be contracted in their corporate capacity, before such division, and whether such capacity is, or shall be continued for other purposes, respecting the concerns of such proprietary:

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,*

The last proprietors to continue a corporate body after a division; until. That notwithstanding the final division of any lands, wharves, or other real estate lying in common, and which had been, or shall have been held and improved as a proprietary, the last proprietors, or holders in common, shall continue in their corporate capacity, until all debts and taxes due to such proprietary, are collected and received, and until all their contracts and agreements, made prior to such final division, shall be performed; and are and shall be liable and capable, in and by the same name and capacity, as before such division, to sue and be sued, and by their agents to pursue and defend, in all matters and demands, respecting such proprietary, until final judgment and execution; and shall and may call and hold meetings, and choose all necessary officers, and may vote, assess, levy and collect all reasonable rates and assessments, in like manner, form and proportion, as before such division such proprietary could or might have done.

Empowered, in case. SECT. 2. *And be it further enacted by the authority aforesaid,* That where, after such final division of any lands or other real estate, which have been or shall have been held as a proprietary, the proprietors making such division have ordered and delivered, or shall order and deliver the record of their proprietary into the custody of the Town-Clerk, in which such land or other real estate, or part thereof, may lie; the proprietors who shall hold any meeting for the purposes before mentioned, may recal the said record, and may cause the Clerk then appointed and sworn, or the Town-Clerk, to whom such records have been committed, to record all votes and proceedings which shall be had at any meeting as aforesaid, and copies of the same may be certified as by law is provided for certifying any other part of such record.

SECT.

SECT. 3. *Provided nevertheleſs*, That the proprietors aforeſaid ſhall not continue to act in their corporate capacity for more than ten years after the final diviſion of their lands or other real eſtate, nor ſhall any ſuit brought againſt them be ſuſtained, unleſs commenced within ſix years from the paſſing this Act, or from the time ſuch right of action ſhall accrue, any thing in this Act to the contrary notwithſtanding. Proviſo.

[This Act paſſed *March* 9, 1791.]

An ACT for regulating the Manufacture of Nails within this Commonwealth, and for repealing all Laws heretofore made for that Purpoſe.

Addit. Acts, Feb. 27, 1795, Feb. 26, 1796.

[This Act paſſed *March* 10, 1791. Repealed *March* 4, 1800.]

An ACT for the Relief of poor Priſoners confined in Gaol for Taxes.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That when any perſon ſtanding committed to priſon by virtue of any warrant for the collection of any tax, rate or aſſeſſment, ſhall complain that he or ſhe hath not eſtate ſufficient to ſupport him or herſelf in priſon, the gaoler or keeper of ſuch priſon ſhall, on ſuch complaint, apply to one of the Juſtices of the Peace, within and for the county in which ſuch priſon is, who ſhall thereupon make out a notification, in writing, under his hand and ſeal, thereby ſignifying to the Aſſeſſors of the town, diſtrict, plantation or pariſh, where ſuch tax, rate or aſſeſſment was made, and alſo to the Conſtable or Collector who executed ſuch warrant, ſuch priſoner's deſire of taking the privilege and benefit, and of the time and place appointed for the intended caption of the oath or affirmation allowed by this Act; which notification ſhall be ſerved on ſuch Aſſeſſors, and Conſtable or Collector, by leaving an atteſted copy thereof, at the office of ſuch Aſſeſſors, or at the uſual place of abode of any one of them; and alſo at the uſual abode of ſuch Conſtable or Collector, at leaſt thirty days before the time appointed for the taking the ſaid oath or affirmation, that they may be preſent, if they ſee cauſe. Method of procedure reſpecting poor priſoners confined for taxes.

SECT. 2. *And be it further enacted*, That any two Juſtices of the Peace and of the Quorum, of the ſame county, being diſintereſted, ſhall be and hereby are authorized and required, at the time and place appointed in ſuch notification, and upon the examination of the return thereof, and a full hearing of the parties who ſhall and may appear thereupon, and no ſufficient cauſe to the contrary, in the opinion of either of the ſaid Juſtices Juſtices empowered.

tices being shewn, and after due caution and examination of such prisoner, to proceed to administer an oath, or if he be of the sect called Quakers, an affirmation, in the form following, *to wit:*

Oath or affirmation.

I do solemnly swear before Almighty God (or I do affirm, as the case may be) that I had not, at the time of my imprisonment, by (naming the said Collector or Constable) nor have I, at this time, any lands, goods, money or demands, whereby to satisfy the sum at which I am assessed in the list or warrant of taxes committed to him to collect, and for which I am now holden in prison, or for the payment of any part of that sum, my necessary apparel and some other articles not liable to be distrained for taxes, and what has been expended for my necessary support while in prison, only excepted; nor have I, at any time before or since my said imprisonment, disposed or intrusted, to any person or persons, any estate, either real or personal, whereby to avoid such payment. *So help me GOD:* (or this I do under the pains and penalties of perjury, in case of affirming as aforesaid.)

Prisoner's discharge.

Which oath or affirmation being administered by the said Justices to, and taken by such prisoner, and a certificate thereof made under the hands and seals of the Justices administering the same, to such gaoler or prison-keeper, he shall thereupon set such prisoner at liberty, if he or she is in prison for no other cause; and the body of such prisoner shall not be held in prison any longer upon such warrant or commitment. Which certificate to be made by the Justices as aforesaid, shall be in the form following, *to wit:*

S—— ff. *To* *Keeper of the Gaol at C*——.

Form of the certificate.

WE, the subscribers, two of the Justices of the Peace and of the Quorum, for the county of *S.* hereby certify, that *A. B.* a poor prisoner, confined by warrant for taxes, in the gaol at *C.* aforesaid, hath caused the Assessors of the town, district or parish (as the case may be) by virtue of whose warrant the said was so confined, and also (naming the said Constable or Collector who executed such warrant) to be notified according to law, of the said *A. B.*'s desire of taking the benefit of an Act, entitled, "An Act for the relief of poor prisoners confined in gaol for taxes," and no sufficient cause to the contrary being shewn—We have, after due caution and examination of the said *A. B.* administered to him or her the oath or affirmation prescribed in the Act aforesaid. Witness our hands and seals, this day of *Anno Domini*, 17 .

And the said Justices, or either of them (if only one be present) may adjourn to a future day, if he or they shall judge it to be necessary.

SECT.

Penalties on conviction of perjury.

SECT. 3. *And be it further enacted*, That any perſon who ſhall take the oath, or make the affirmation aforeſaid, having had at the time of his or her commitment as aforeſaid, or afterwards, and before or at the time of taking ſuch oath or affirmation, any lands, goods, money or demands, other than therein is excepted, and whereby he or ſhe might have diſcharged the ſaid rates or taxes, or any part thereof, or having diſpoſed of or intruſted his or her eſtate, contrary to the tenor of the ſaid oath, and ſhall be thereof duly convicted before the Juſtices of the Supreme Judicial Court of this Commonwealth, he or ſhe ſo therein offending, ſhall ſuffer the pains and penalties of wilful perjury, which are or ſhall be in other caſes provided. And in caſe ſuch priſoner, at the time of the intended caption, ſhall not take the ſaid oath or affirmation, or not be admitted thereto by the ſaid Juſtices, he or ſhe ſhall be remanded back to priſon, and ſhall not be entitled to the benefit of this Act, unleſs upon a repetition of the proceedings aforeſaid, the oath or affirmation aforeſaid ſhall be adminiſtered.

Priſoner to be remanded; in caſe.

Executions againſt the priſoner to remain good in law.

SECT. 4. *And be it further enacted*, That all and every warrant for taxes as aforeſaid againſt ſuch priſoner, ſhall, notwithſtanding ſuch diſcharge as aforeſaid, be and remain good and effectual in law, to all intents and purpoſes, againſt any eſtate whatſoever, which may then or at any time afterwards belong to him or her (his or her wearing apparel and other articles not liable to be diſtrained for taxes, only excepted) and may be carried into execution for the ſatisfaction of ſuch taxes, out of ſuch eſtate, in ſuch ſort and manner as might have been done in caſe the ſaid priſoner had never been committed as aforeſaid: Or the Conſtable or Collector, who ſhall make ſuch commitment, or the inhabitants of the town or place, where ſuch tax was aſſeſſed, ſhall and may have remedy therefor, by a ſuit or action, as for the proper debt of ſuch Conſtable, Collector or inhabitants, any judgment to be recovered thereupon, to be ſatisfied only from the goods or eſtate of ſuch poor perſon, who ſhall and may be relieved by this Act.

Town holden to pay, on liberation of the priſoner.

SECT. 5. *And be it further enacted*, That when any perſon ſtanding committed as aforeſaid, for any tax due to this Commonwealth, or to the county, ſhall be liberated from ſuch commitment, by virtue of this Act, in every ſuch caſe, the town, plantation or diſtrict, from whoſe Aſſeſſors the warrant, by virtue of which ſuch priſoner was committed, was iſſued, ſhall be holden to pay the whole tax required of ſuch town, plantation or diſtrict, by law; ſuch liberation notwithſtanding.

Proviſo.

SECT. 6. *Provided, and be it further enacted*, That when any perſon who ſhall be impriſoned for the non-payment of the proportion of any tax which ſhall be aſſeſſed after the firſt day of *April* next, ſhall be diſcharged from confinement, by virtue of this Act, the Collector or Conſtable making ſuch impriſonment ſhall not be diſcharged of the proportion which was due from

from such person, but shall be holden to pay the same; unless such imprisonment shall be made within one year, next after the commitment of such tax to such Collector or Constable, or unless the inhabitants of such town or place, in legal town-meeting, shall see fit to abate the same, to such Collector or Constable.

[This Act passed *March* 10, 1791.]

An ACT for establishing an Academy in the Town of *Berwick* by the Name of *Berwick Academy*.

[This Act passed *March* 11, 1791.]

An ACT for repealing an Act passed in the Year of our LORD One thousand seven hundred and eighty-four, entitled, "An Act to incorporate the Church and Congregation in the District of *Orange*, in the County of *Hampshire*, whereof the Rev. Mr. *Emerson Foster* is the present Minister, into a Society by the Name of *The Congregational Society of Orange*."

[This Act passed *March* 11, 1791.]

An ACT for regulating the Taking of Shad, Alewives and other Fish in their Passage through *Neponset-River* and the several Streams to the Ponds called *Punkapog* and *Massapog*.

[This Act passed *March* 11, 1791.]

An ACT to incorporate the north Part of the Town of *Winthrop*, in the County of *Lincoln*, with the Inhabitants thereon, into a Town by the Name of *Readfield*. [This Act passed *March* 11, 1791.]

An ACT for naturalizing *John White* and others.

[This Act passed *March* 11, 1791.]

An ACT for establishing the Boundary Line between the Towns of *Brookfield* and *New-Braintree*, in the County of *Worcester*.

[This Act passed *June* 10, 1791.]

An ACT to set off *John Ladd* from the first to the second Parish in *Methuen*.

[This Act passed *June* 10, 1791.]

An ACT for the Preservation and Encouragement of the Fur Trade within this Commonwealth.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That no person or persons shall hereafter, in either of the months of *June*, *July*, *August* or *September*, take, or wilfully kill, any Otter, Beaver, Minks, Sable or Martin, Fisher or Black-Cat, Leusisee, Musquash or Wolverin, on pain of forfeiting and paying a sum not less than *Twenty Shillings*, nor more than *Three Pounds*, to and for the use and benefit of the person or persons who shall or may sue or prosecute for the same, together with full costs of suit; to be recovered by action of debt, in any Court of this Commonwealth competent to try the same: *Provided*, That all prosecutions or suits for any breaches of this Law shall be commenced within two years from the time when the offence was committed, and not otherwise. Time limited, and penalty in case of offence.

[This Act passed *June* 10, 1791.]

An ACT altering the Place of holding the Courts of General Sessions of the Peace and of Common Pleas, in and for the County of *Cumberland*, now by Law to be holden at *Portland*, in that County, in the month of *January* annually.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the Courts of General Sessions of the Peace and of Common Pleas which are now, by law, to be holden at *Portland*, in and for the county of *Cumberland*, on the first Tuesday of *January* annually, shall be holden in the town of *New-Gloucester*, in said county, on the same first Tuesday of *January* annually, any law to the contrary notwithstanding. Place for holding Courts altered.

[This Act passed *June* 11, 1791.]

An ACT for altering the Time of holding the Court of General Sessions of the Peace and the Court of Common Pleas, within and for the County of *Plymouth*, from the last Tuesday of *July* to the second Tuesday of *August*.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,*

Act repealed.

same, That the Act, entitled, "An Act for determining at what times and places the several Courts of General Sessions of the Peace and the Courts of Common Pleas shall be holden within and for the several counties within this Commonwealth, and for repealing all laws heretofore made for that purpose," so far as it respects the holding of the Court of General Sessions of the Peace and the Court of Common Pleas, within and for the county of *Plymouth*, on the last Tuesday of *July*, be and it is hereby repealed.

Time for holding Courts altered.

SECT. 2. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, the time of holding the Court of General Sessions of the Peace and Court of Common Pleas, within and for the county of *Plymouth*, shall be on the second Tuesday of *August* annually.

All matters pending, to be held valid and returnable.

SECT. 3. *And be it further enacted by the authority aforesaid*, That all appeals already made, recognizances taken, or that may, before the aforesaid last Tuesday of *July* next, be made or taken to the aforesaid Court of General Sessions of the Peace, and all actions already commenced, or that may be commenced, and all processes returned, or that may be returnable, before the aforesaid last Tuesday of *July*, and all appeals claimed, or which may be claimed, and all actions pending at the aforesaid Court of Common Pleas, which, before the passing of this Act, was to be holden on the last Tuesday of *July*, shall be returnable to, entered, made, proceeded on, tried and determined, agreeably to the true intent of such writ, process, recognizance or appeal, at the Courts hereafter to be holden in said county, on the second Tuesday of *August*.

[This Act passed *June* 15, 1791.]

An ACT to set off *Julius Allis* from the Town of *Deerfield*, in the County of *Hampshire*, and to annex him to the Town of *Conway*.

[This Act passed *June* 17, 1791.]

An ACT for incorporating certain Persons for the Purpose of opening a Canal from the Head of *New-Meadow-River* to *Merry-Meeting-Bay*.

[This Act passed *June* 17, 1791.]

Addit. Act, Mar. 26, 1793.

An ACT to ascertain the Quality of Pot and Pearl Ashes, and for the more effectual Inspection of the same.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*,

ſame, That no perſon or perſons whatſoever ſhall ſhip any Pot or Pearl Aſhes, for exportation, before he ſhall firſt have ſubmitted the ſame to the view and examination of the Inſpector or his deputy, who ſhall be appointed as hereinafter mentioned; who ſhall ſtart the ſame out of the caſks, and carefully examine, try and inſpect the ſame, and ſort the ſame in three different ſorts, if neceſſary;—That the ſaid Inſpector ſhall put each ſort by itſelf in tight new caſks, well hooped and coopered, which he ſhall diſtinguiſh by the words, *firſt ſort*, *ſecond ſort*, or, *third ſort*, with the words *Pot* or *Pearl Aſhes*, as the ſame may be, branded in plain legible letters, together with the letters of his name, and the place where ſuch Pot or Pearl Aſhes ſhall be inſpected—as alſo the word *Maſſachuſetts*, at full length, on each caſk: For which ſervices, and alſo the additional ſervice for re-packing the ſaid Pot and Pearl Aſhes, and putting the caſks in good condition for ſhipping, and for inſpecting and weighing the ſame, and delivering to the owner an invoice or weight-note under his hand, of the weight of each caſk, he ſhall have and receive *Four Pence Half-Penny* for every hundred weight ſo inſpected, to be paid by the purchaſer of the ſame.

Aſhes not to be ſhipped till inſpected.

SECT. 2. *And be it enacted by the authority aforeſaid*, That from and after the firſt day of *March* next, every caſk in which Pot or Pearl Aſhes ſhall be packed for exportation, ſhall be made of ſound and well ſeaſoned oak or white aſh ſtaves and heading, full bound, twenty-nine inches in length, nineteen inches diameter in the head, and of ſuch weight in proportion to its contents, as will amount, as near as may be, to fourteen *per centum* tare thereon.

Quality and dimenſions of the caſks.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That the ſaid Inſpector, or his deputy, at the time of ſtarting Pot or Pearl Aſhes for inſpection, ſhall weigh the caſk or caſks, and mark the weight with a marking iron on each head thereof.

Inſpector to weigh and mark the caſks.

SECT. 4. *And be it further enacted by the authority aforeſaid*, That every ſuch Inſpector ſhall have full power and authority by virtue of this Act, and without further or other warrant, to enter on board any ſhip or veſſel whatſoever, lying and being in the harbour where ſuch Inſpector is authorized to inſpect Pot or Pearl Aſhes, ſhipped or ſhipping on board any ſuch veſſel for exportation from this State: And if ſaid Inſpector ſhall, on ſearch, diſcover any caſk or caſks of Pot or Pearl Aſhes, not branded as before directed, the perſon or perſons ſo ſhipping, or having ſhipped the ſame, ſhall forfeit all and every ſuch caſk or caſks of Pot and Pearl Aſhes, ſo ſhipped or ſhipping, and not branded in the manner hereinbefore directed: And ſuch Inſpector, or his deputy, ſhall and may ſeize and carry away and ſecure the ſame for trial, and require neceſſary aid for that purpoſe, which it ſhall be the duty of every perſon ſo required, to give, on pain of forfeiting the ſum of *Forty Shillings*,

Empowered.

lings, for his refusal or neglect. And the master or commander of any such vessel, who shall receive on board any such cask or casks of Pot or Pearl Ashes, not branded as aforesaid, shall forfeit the sum of *Five Pounds* for each cask so received. And if any master of any ship or vessel, or any of his servants or seamen, shall obstruct or hinder the said Inspector in making such search, as aforesaid, every person so offending shall forfeit for each offence the sum of *Ten Pounds*.

Penalty.

—— for neglect of duty in the Inspector.

Sect. 5. *And be it further enacted by the authority aforesaid*, That if any Inspector of Pot or Pearl Ashes (according to the duties of this Act) shall, on application made for the examination of any Pot or Pearl Ashes aforesaid, unreasonably refuse, neglect or delay to proceed to such examination and inspection, for the space of three hours after such application so made to him, the Inspector so refusing, neglecting or delaying to make such examination or inspection, shall, for each offence, forfeit the sum of *Twenty Shillings*.

—— for branding otherwise than agreeably to law.

Sect. 6. *And be it enacted by the authority aforesaid*, That if any person shall brand any cask of Pot or Pearl Ashes manufactured by himself, with the name of any other person than his own, or shall brand any such cask manufactured by another person, with his own name, or shall counterfeit any brand belonging to, or proper to be used by the said Inspector, or any of his deputies, or shall impress or brand any cask of Pot or Pearl Ashes with any brand or brands of such Inspectors, or with any counterfeited as aforesaid, he shall forfeit and pay for each offence the sum of *Fifty Pounds*.

—— in case of fraud in other respects.

Sect. 7. *And be it further enacted by the authority aforesaid*, That if any person shall empty any cask or casks of Pot or Pearl Ashes, inspected and branded as by this Act is required, and put in any other Pot or Pearl Ashes for sale or exportation, without first cutting out the said brand marks, the person or persons so offending shall, for each cask, forfeit and pay the sum of *Fifty Pounds*.

Appropriation of fines and forfeitures.

Sect. 8. *And be it enacted by the authority aforesaid*, That all fines and forfeitures mentioned in this Act, above the sum of *Four Pounds*, and under *Twenty Pounds*, shall and may be sued for and recovered with costs, by any person to his own use: But if the sum shall amount to *Twenty Pounds*, or more, then one half to his own use, and the other half to the use of the Commonwealth; and in both cases, by action of debt in the Court of Common Pleas in the county where the offence shall be committed, with liberty of appeal as in other civil actions. But if the forfeiture shall be *Four Pounds* or under, then it may be sued for by such action, for the use of the prosecutor, before a Justice of the Peace, with like liberty of appeal. And all casks of Pot or Pearl Ashes, forfeited and seized as aforesaid, may be prosecuted to condemnation by the officer seizing the same, by libel before the Court of Common Pleas, in the

Manner of prosecution.

county

county where the seizure shall be made, if above the value of *Four Pounds*, or before a Justice of the Peace, if under that sum, with liberty of appeal to the Supreme Judicial Court, or Court of Common Pleas, respectively, as the case may require; and after condemnation, the same shall be sold at public vendue, by such officer; and after payment of all charges, one half of the remainder shall be by him paid into the Treasury, for the use of the Commonwealth, and the other half be for the use of such officer.

Form of branding casks.

SECT. 9. *And be it further enacted by the authority aforesaid*, That every manufacturer of Pot and Pearl Ashes within this Commonwealth, shall brand each cask containing the same, with the initial letters of his christian name, and his surname at full length, with the name of the town where the same shall be manufactured, before the same shall be removed from the manufactory, under the penalty of *Five Shillings* for each cask so removed, without being previously branded as aforesaid.

Inspector appointed.

SECT. 10. *And be it further enacted by the authority aforesaid*, That there shall be an Inspector of Pot and Pearl Ashes for the Commonwealth, who shall be well skilled in the knowledge and properties of the same, to be appointed by the Governor, with the advice and consent of the Council, and to be by them removeable at pleasure; and who, before he shall enter upon the duties of his office, shall give bond, with sufficient sureties, to the Treasurer of the Commonwealth, in the penal sum of *One Thousand Pounds*, for the faithful discharge of his duty, and shall also be sworn faithfully to perform the same.

------ to give bonds.

And such Inspector shall have power, when so qualified, to appoint, and shall appoint Deputy-Inspectors in every seaport town where Pot and Pearl Ashes are exported, and also in *Watertown* and *Medford*, and such other places as he shall judge necessary; for whom he shall be answerable, and shall take bonds from them, with sufficient surety or sureties, and they shall also be sworn to the faithful discharge of their duty: And the said Inspector shall not be entitled to receive from any deputy he may appoint, more than *One Penny* for each hundred weight of Pot or Pearl Ashes such Deputy may inspect agreeably to this Act.

------- to appoint deputies.

Laws repealed.

SECT. 11. *And be it further enacted by the authority aforesaid*, That all former laws respecting the inspection and assay of Pot and Pearl Ashes, so far as they relate to the same, be and hereby are repealed.

Proviso.

Provided nevertheless, That they shall be considered as in full force, with regard to all actions and prosecutions which may be now depending for any penalty or forfeiture incurred for breach of the same.

[This Act passed *June* 17, 1791.]

June 25, 1789. An ACT in Addition to an Act, entitled, "An Act for erecting and eſtabliſhing two new Counties in the County of *Lincoln*, and declaring the Boundaries of the County of *Lincoln* in future."

Preamble. WHEREAS no proviſion is made in the ſaid law for empowering the Supreme Judicial Court, at their ſeſſions holden according to law, in the county of *Lincoln*, to take cognizance of crimes committed in the counties of *Hancock* and *Waſhington*, otherwiſe than by appeal:

Supreme Judicial Court to be holden for three counties. SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame*, That the Supreme Judicial Court to be holden in the county of *Lincoln*, ſhall be holden for the counties of *Lincoln*, *Hancock* and *Waſhington*, and ſhall from time to time, and at all times hereafter, until the further order of the General Court, have the ſame juriſdiction, power and authority, for the trial of all actions, civil and criminal, the cauſe whereof has ariſen or ſhall ariſe within the body of either of the counties of *Hancock* or *Waſhington*; as alſo to hear and determine all other matters and things ariſen or which ſhall ariſe within the body of either of the ſaid counties, and ſhall have the ſame original juriſdiction of all matters, criminal, civil and mixed, ariſen or which ſhall ariſe in either of the ſaid counties, as if the ſame actions, matters and things, had ariſen within the body of the ſaid county of *Lincoln*.

Jurors choſen. SECT. 2. *And be it further enacted by the authority aforeſaid*, That the Grand and Petit Jurors to ſerve at the Supreme Judicial Court, to be holden within the ſaid county of *Lincoln*, ſhall, from time to time, be choſen and ſummoned out of the ſeveral towns within the counties of *Lincoln*, *Hancock* and *Waſhington*, in the ſame manner as has been heretofore practiſed.

[This Act paſſed *June* 10, 1791.]

An ACT in Addition to an Act, entitled, "An Act for appointing the Times and Places for holding the Supreme Judicial Court."

Preamble. WHEREAS the Supreme Judicial Court holden at *Boſton*, in the county of *Suffolk*, on the laſt Tueſday of *Auguſt*, and at *Barnſtable* within and for the county of *Barnſtable*, on the Wedneſday next preceding the third Tueſday of *May*, has the appellant juriſdiction of all the judgments, orders and determinations of the Courts of General Seſſions of the Peace and Courts of Common Pleas, holden within and for the counties of *Nantucket* and *Dukes'-County*: but no proviſion is made for appeals from the decrees and orders of the Judges of Probate for the reſpective counties of *Nantucket* and *Dukes'-County*,

County, to the Supreme Judicial Court, now appointed the Supreme Court of Probate:

SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That all appeals which have already been claimed according to law within twelve months from the date hereof, or that may hereafter be claimed from the decrees and orders of the Judge of Probate for the county of *Nantucket*, shall be heard and determined at the Supreme Judicial Court holden at *Boston* on the last Tuesday of *August* annually. Where appeals may be heard and determined.

SECT. 2. *And be it further enacted by the authority aforesaid*, That all appeals which have been claimed according to law, within twelve months from the date hereof, or that may hereafter be claimed from the decrees and orders of the Judge of Probate for the county of *Dukes'-County*, shall be heard and determined at the Supreme Court of Probate to be holden at *Barnstable* on the Wednesday next preceding the third Tuesday of *May* annually. Where appeals may be heard and determined.

[This Act passed *June* 17, 1791.]

An ACT for repealing in Part an Act, entitled, "An Act for the further regulating the Assize of barrel Beef and Pork," passed the fourteenth Day of *November*, One thousand seven hundred and eighty-four.

WHEREAS the Act abovementioned requires that all barrels made use of for salting Beef and Pork shall be clear of sap, which is found to be unnecessary: Preamble.

Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That that part of the clause in the Act aforesaid, requiring the cask made use of for salting Beef and Pork to be clear of sap, be and it hereby is repealed. Clause repealed.

[This Act passed *June* 17, 1791.]

An ACT in Addition to an Act, entitled, "An Act for the more safe keeping the Registry of Deeds and Conveyances of Land, and for appointing the Time and Manner of choosing Registers."

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That whenever it shall so happen, that no person shall have a majority of the votes legally returned for a Register of Deeds in any county within this Commonwealth; in such cases, the Court of Court of Sessions empowered.

of General Seſſions of the Peace ſhall be and hereby are empowered to adjourn, for the purpoſe of opening the votes returned, upon a new warrant, by the ſaid Court iſſued, to ſome day previous to the next Court of General Seſſions of the Peace to be by law holden in the county, any thing in the ſaid recited Act to the contrary notwithſtanding: And at any adjournment for the purpoſe aforeſaid, the ſame proceedings ſhall be had as are now authorized by law at any Court of General Seſſions of the Peace by law eſtabliſhed for ſuch county.

[This Act paſſed *June* 18, 1791.]

Addit. Acts, June 11, 1796. Feb. 6, 1799.

An ACT directing the Manner in which Inqueſts of Office ſhall be taken to reveſt Real Eſtate in the Commonwealth, or to entitle the Commonwealth thereto.

SECT. 1. *BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame,* That in all caſes where lands, tenements or hereditaments have heretofore been granted, or confirmed by the late Province or Colony of *Maſſachuſetts-Bay*, or by this Commonwealth, or which may hereafter be granted or confirmed by this Commonwealth, on certain conditions in ſuch grants or confirmations mentioned, and the Commonwealth ſhall claim to be reveſted in the ſame, for the breach of one or more of the ſaid conditions, an inqueſt of office ſhall thereupon be taken, in the Supreme Judicial Court in the county where the eſtate lies, in the manner following, *that is to ſay*—The Attorney-General ſhall, upon the direction of the Legiſlature, file an information in behalf of the Commonwealth, in the ſaid Court, at any term thereof, in any county, ſetting forth, among other things, the grant or confirmation, with the conditions therein mentioned, and aſſigning the breaches of ſuch of the ſaid conditions as ſhall be directed by the Legiſlature, and of no others; and alleging that by force thereof the Commonwealth have right by law to be reveſted in the ſaid eſtate, and praying that proceſs may iſſue thereupon in due courſe of law; whereupon the Court ſhall order a *Scire Facias* to iſſue againſt ſuch perſon or perſons, bodies politic and corporate, or proprietors, as the Attorney-General, in his information, ſhall allege, hold the eſtate under ſuch grant or confirmation, returnable to the ſaid Court at one of the terms to be holden in the county where the eſtate lies; which *Scire Facias* ſhall be ſerved thirty days before the ſitting of the Court to which the ſame is made returnable. And if the defendants ſhall not appear, or appearing, ſhall refuſe to plead, judgment ſhall be rendered,—that the Commonwealth be reſeized of the eſtate deſcribed in the information; and if the defendants ſhall, by plea, diſclaim to hold

Manner and form of taking inqueſts of office to reveſt real eſtate, where grants have been or may be made by the Commonwealth.

hold the said estate, or any part thereof, then judgment shall be rendered,—that the Attorney-General take nothing by his information, so far as the same respects the estate so disclaimed; and the defendants, their heirs and assigns, shall forever thereafter, be estopped from claiming or holding the estate so disclaimed, under the said grant or confirmation. But if the defendants shall claim to hold the said estate, or any part thereof, under such grant or confirmation, and shall traverse the breaches assigned, issue being joined thereon, the same shall be tried by a Jury at the bar of the said Court, in the usual and due course of law; and a view may be granted or a plan ordered, when necessary, as in the trial of real actions. And if the issue be found in favour of the Commonwealth, judgment shall be rendered,—that the Commonwealth be reseized of the said estate, and recover costs of suit; for which costs, execution shall issue in due form of law: But if the issue shall be found for the defendants, judgment shall be rendered,—that they recover their costs of suit, to be taxed by the Court, and paid out of the public treasury, by warrant of the Governor and Council.

Provided nevertheless, If the only condition alleged to be broken, is, that the defendants hold more land under such grant, or confirmation than they have right, by force thereof, to hold, and the same shall appear, either by verdict of the Jury, or confession of the defendants; then the Justices of the said Court shall have power to assign to the defendants by metes and bounds, at their request and cost, so much of the land which shall be held by the defendants as aforesaid, as shall be equal in quantity to the land they might lawfully have held under such grant or confirmation, and in such part thereof as shall be just and reasonable, under all the circumstances of the case, and may order the same to be located by proper persons, to be appointed for that purpose by the Court, at the expense of the defendants; which location, with a plan thereof, shall be returned to the said Court, and may be confirmed by the same; unless good cause be shewn to the contrary by the Attorney-General or the defendants. And if such location shall be confirmed, then the Court shall order an attested copy thereof, and of the said plan, to be filed, at the expense of the defendants, in the Secretary's office, and judgment shall be rendered,—that the Commonwealth be reseized of the residue, and recover costs of suit. Proviso.

SECT. 2. *And be it further enacted*, That in all other cases where an inquest of office is necessary by law to entitle the Commonwealth to hold lands, tenements or hereditaments, such inquest shall be taken by the Supreme Judicial Court in the county in which such estate lies, upon information of the Attorney-General, describing, among other things, the estate claimed, and the title set up thereto, by the Commonwealth; and Form of an inquest of office in all other cases.

and upon the filing of such information, the same proceedings shall be had as before directed, *mutatis mutandis*, unless where there is no tertenant; and in such case, notice shall be given to any person or persons claiming such estate, to shew cause, at such term of the said Court as shall be mentioned in the notification, why judgment should not be rendered, that the Commonwealth be seized of such estate, by causing an attested copy of such information, with the order of Court thereon, to be published in such public newspapers as the Court shall direct, three weeks successively, ninety days at least before the sitting of the said Court: And if no person shall appear, and, by plea, deny the title of the Commonwealth to such estate, then judgment shall be rendered,—that the Commonwealth be seized thereof: But if any person shall appear, and, by plea, deny the title set up by the Commonwealth, the cause shall be tried by a Jury at the bar of the Court; and a view or a plan may be ordered, as in the trial of real actions; and if a verdict shall be found, that the Commonwealth have good title to such estate, judgment shall be rendered,—that the Commonwealth be seized thereof, and recover costs of suit against the defendant; for which costs, execution shall issue in due form of law: But if the Jury shall find, that the Commonwealth hath no title to such estate, and that the defendant hath good title thereto, the defendant shall recover his cost of suit, to be taxed by the Court, and paid out of the public treasury, by warrant of the Governor and Council; but if the Jury do not find that the defendant hath good title to such estate, then he shall not be allowed his costs.

In case judgment be rendered for the Commonwealth.

SECT. 3. *And be it further enacted*, That when any judgment shall be rendered on any inquest of office, that the Commonwealth be reseized, or seized of any lands, tenements or hereditaments, the Commonwealth shall immediately, upon the rendition of such judgment, be deemed, and taken in the law, to be in fact seized of all such estate, to all intents and purposes whatever: And all judgments rendered on any inquest of office, taken by virtue of this Act, shall conclude all parties and privies thereto, their heirs and assigns, so long as such judgments shall remain in full force.

[This Act passed *June* 18, 1791.]

An ACT incorporating certain Religious Societies therein named in the Town of *Great-Barrington*, in the County of *Berkshire*.

[This Act passed *June* 18, 1791.]

An ACT for discontinuing the Office of Comptroller-General in this Commonwealth.

[This Act passed *June* 18, 1791.]

An ACT determining at what Times and Place the Courts of General Seſſions of the Peace and Courts of Common Pleas ſhall be holden, within the County of *Berkſhire*.

BE it enacted by the Senate and Houſe of Repreſentatives, in General Court aſſembled, and by the authority of the ſame, That from and after the firſt day of *September* next, the times and place for holding the Courts of General Seſſions of the Peace and Courts of Common Pleas, within and for the county of *Berkſhire*, ſhall be at *Lenox*, on the ſecond Tueſday of *September*, the firſt Tueſday of *January*, and the third Tueſday of *April*, annually; any law heretofore made to the contrary notwithſtanding.

Times and place for holding Courts.

[This Act paſſed *June* 18, 1791.]

An ACT in Addition to an Act, entitled, "An Act empowering the Juſtices of the Supreme Judicial Court to grant Writs of Review, in certain Caſes."

WHEREAS in ſaid Act no proviſion is made, in caſes wherein, by reaſon of any accident, miſtake, or unforeſeen cauſe, an appeal in a civil action, or complaint, may not be entered at the Supreme Judicial Court at the proper term of ſaid Court for entering the ſame, and a proviſion in ſuch caſes is found to be neceſſary:

Preamble.

SECT. 1. *Be it therefore enacted by the Senate and Houſe of Repreſentatives in General Court aſſembled, and by the authority of the ſame,* That in every ſuch caſe, the Juſtices of the ſame Court be and they are hereby empowered, on the petition of the party, at their diſcretion, to order ſuch appeal, or complaint, to be entered at any other term of ſaid Court, within the county where the judgment appealed from ſhall have been rendered; and to proceed to try the appeal, or affirm the former judgment, with additional damages and coſts, in the ſame manner as they might have done if the ſaid appeal, or complaint, had been entered at the proper term for entering the ſame; and the ſaid Juſtices are hereby veſted with all the diſcretionary power reſpecting ſuch appeals, or complaints, with which they are veſted, in the caſes mentioned in ſaid Act.

Juſtices of the Sup. J. Court empowered to order appeals to be entered.

Provided, That no petition for entry of ſuch appeal or complaint ſhall be ſuſtained, unleſs ſuch petition ſhall be exhibited to the Court within one year after the term, at which ſuch appeal or complaint ought to have been entered, or within one year from the paſſing of this Act: *And provided alſo*, That no goods or eſtate attached, or bail given upon the original writ, ſhall be affected by any thing done by force of this Act; but the ſame ſhall remain diſcharged, notwithſtanding the entry of any ſuch appeal or complaint as aforeſaid.

Proviſo.

And

And whereas the power for granting reviews by the ſaid Juſtices, is limited to certain caſes in the aforeſaid Act deſcribed, and to a certain time therein ſpecified, which is found to be inconvenient:

Diſcretionary powers to grant writs of review.

SECT. 2. *Be it therefore enacted by the authority aforeſaid*, That the ſaid Juſtices be and they are hereby veſted with a diſcretionary power, to grant reviews in civil actions, whenever they ſhall judge it to be reaſonable, without being limited to particular caſes, any omiſſions in the aforeſaid Act notwithſtanding.

Proviſo.

Provided, That application be made to the Juſtices of the ſaid Court, within three years after the rendition of the judgment complained of.

Courts of Common Pleas empowered.

SECT. 3. *And be it further enacted by the authority aforeſaid*, That every Court of Common Pleas, within this Commonwealth, be and they are hereby veſted with the ſame powers reſpecting appeals made from judgments rendered by Juſtices of the Peace, and complaints for not entering the ſame; and alſo reſpecting all actions and ſuits before Juſtices of the Peace wherein the damage laid does not exceed *Four Pounds*, and wherein the defendant has been defaulted for want of actual notice of the ſuit, or by ſome other accident or miſtake, with which the Juſtices of the Supreme Judicial Court are by this Act veſted, reſpecting appeals from judgments rendered by Courts of Common Pleas, and complaints for not entering the ſame, and reſpecting the granting reviews in the certain other actions or ſuits before mentioned, wherein the defendant has been defaulted, or loſt his law.

[This Act paſſed *June* 18, 1791.]

END OF THE FIRST VOLUME.

INDEX

TO BOTH VOLUMES

OF THE LAWS OF MASSACHUSETTS;

(THE FIRST VOLUME ENDING AT PAGE 520.)

A.

	Pages.
ABATEMENTS and demurrers, when to be filed	73
judgments on, in the Common Pleas, may be appealed from	206
of taxes, when and how to be made	280
of aſſeſſments by proprietors of common and general fields by the Seſſions	288, 289
Abſconding Debtors, proceſs againſt their effects	673, 820
Abſentees, not to reſide in the State without licenſe	181
may ſell their real eſtate	181
mortgages, &c. of their real eſtate and ſales of their perſonal eſtate confirmed	214
and Conſpirators, their eſtates confiſcated	1053, 1055, 1060, 1061, 1069
Act to provide for the payment of their debts, &c.	1061, 1067, 1068, 1071, 1073
Acceſſaries to crimes, their puniſhment	230
to larcenies, and other leſs crimes	234
Account, action of, by co-executor or reſiduary legatee	114
by co-adminiſtrator	128
action of, regulated	273
Accounts may be filed in the Clerk's office ſeven days before the Court,	207
and before a Juſtice four days before trial	638
for the ſupport of the poor of the Commonwealth, what evidence to accompany them	849
Acknowledgment of debts	79
of deeds	133
Actions, when they may be entered at the Courts of Common Pleas	73
of debt by literary authors, to recover, in caſe	94
will not lie for ſale of land unleſs the contract be in writing	132
if title to real eſtate be concerned, to be brought to the Common Pleas	147, 149
of £4. and under, not to be brought before the Court of Common Pleas, unleſs	149

Pages.

Actions againſt executors or adminiſtrators on inſolvent eſtates not to be ſuſtained, unleſs - - 183
civil mode of proceeding in - - 199
ſeveral, brought that might be joined in one, no more coſts to be allowed - - - - 207
perſonal, in what county they may be brought - 207
of debt, caſe, libel, &c. in Common Pleas, for all breaches of commercial regulations (in the loaf-ſugar Act) 262
of account regulated - - - 273
of the caſe to recover monies loſt at gaming - 293
poſſeſſory, mode of proſecuting by heirs - 297
real, limitations of - - - 328
perſonal, limitations of - 353, 459, 499, 573, 637
of review, how tried - - - 369
by the friends of perſons kidnapped or decoyed away 409
defaulted or diſcontinued may be reviewed in Court, &c. 424, 519
upon penal ſtatutes limited - - 425
penal, muſt ſtate the offence in the true county 426
will not lie on a ſpecial promiſe not to be executed within one year, &c. unleſs in writing, &c. - 427
on the caſe againſt perſons ſecreting debtors' goods 427, 428
of debt by a hogreeve - - - 451
againſt executors and adminiſtrators, limitation of 459
by a Collector, to recover taxes - - 465
againſt proprietors of common lands, limitation of 505
real, for the Commonwealth to recover lands - 516
of debt or treſpaſs for deſtroying logs, timber, &c. or uſing it 610
of debt, the remedy for recovering all forfeitures 614
to recover payment for the ſupport, &c. of poor perſons 624, 628
what ſhall conſtitute the commencement of - 637
failing by accident not barred by the ſtatute of limitations 637
maintainable againſt executors and adminiſtrators on inſolvent eſtates, in caſe - - - 639
of debt on judgments, regulated - - 720
real, defendant's own bond alone to be taken to anſwer, &c. 732
—, tenants to be ſummoned, though not defendants 809
—, may be continued where defendants are out of the State 809
by inhabitants whoſe eſtates are taken for deficient taxes againſt towns and plantations - - 894

Acts, temporary, made perpetual - - 765, 788

Addreſs of Preſident Waſhington - - 947

Adjournment of Court of Common Pleas - - 72
of a Juſtice's Court, in caſe - - 147

Adminiſtration, de bonis non, to be granted where executors, &c. neglect to ſettle, &c. - - 84, 85
with the will annexed, to be granted where executors refuſe - - - 113, 114
with the will annexed, to be granted when executors are under age - - 114
with the will annexed, to be granted when executors or adminiſtrators remove out of the Government and refuſe to account, or become inſane, or otherwiſe incapable - 114, 115

Pages.

Administration of a *feme sole*, when joint, extinguished upon her marriage - - - 115
with the will annexed, to be granted on the death of executors - - - 115
of intestate estates, when and to whom to be granted 127
de bonis non, not to be granted unless there be personal estate, or debts of £.5 or upwards - 128
not to be originally granted after 20 years from the death of a person - - 129
Administrators and Guardians not being inhabitants of the Commonwealth, to give bond - 85
removing, becoming insane, or otherwise incapable, letters to be granted to others - 114
to apply to Court for leave to sell real estate 118
to give notice before the sale of real estate - 118
to put estate on interest, in case, &c. - 119
to fulfil contracts for the sale of real estate made by persons deceased - - 120
to redeem real estate, in case, &c. - 121
neglecting to raise money, is waste - 121, 122
to answer out of their own estate, in case - 122
their persons and property not to be arrested, &c. 122
to take an inventory of intestates' estates within three months - - - 127
to give bond with sureties - - 127
refusing to account, co-administrators may have an action - - - 128
to account for personal estate as appraised, unless 131
executors and guardians to be under oath before the sale of real estate - - 131
their duty when estates are insolvent - 182
——— *and Executors* living out of the State, to give bond 85
to prosecute and defend suits, on the death of the principal - 122
to proceed against retainers and embezzlers of property - - - 123
may be sued before a Justice of the Peace - 148
to have a continuance of course, 174, contra, 462
not liable to be sued when estates are insolvent 183
of Collectors of taxes, liable to pay, &c. in case, &c. 267
refusing to account on oath, their bonds to be sued 358
not answerable on their own promise for debt, &c. 427
to prosecute reviews, in certain cases - 445
their power and duty over land mortgaged and set off by execution - - 446
to give notice of their appointment - 459
not liable to be sued within 12 months of their appointment - - - 460
to record notice of the sale of land - 461
affidavits of, where real estate is sold - 461
accounts of, may be settled by referrees - 466
(See Executors.)

Adultery, punishment of - - - 217

Advancements to children, &c. to be deducted out of their portions 126

INDEX.

Pages.

Advancements to children, &c. what amounts to it - 126
Affidavits of executors and administrators of notifying their appointment 459
of posting notifications of the sale of real estate 461
Affirmation of judgments on appeals - - 74
of Justices' judgments - - 149
of decrees in Probate Courts - - 157
of judgments in actions of partition - 356
Africans, importation of, prohibited - - - 407
not citizens nor subjects of the Emperor of Morocco, not to tarry within this Commonwealth, on penalty, &c. 413
Age lawful for conveying lands, making wills, &c. - 961
Agreements about pleas, &c. bind the parties - - 206
about fences, good and binding, &c. - 284
Aid in criminal cases - - - - 724
Aliens liable to be expelled, in case - - 180, 213
proscribed allowed to be naturalized - - 546
Allegiance what, and from whom due to the State - 1046
Amendments in legal proceedings allowed - - 207
in the Constitution of the United States ratified 647
Appeals in *Audita Querela* process - - 58
from the Court of Common Pleas - 72, 206
from the Court of General Sessions of the Peace allowed 74
from Nantucket, when and where to be made and heard 93
from Justices of the Peace in trespass, &c. - 148
from Justices of the Peace in civil actions - 148
from Probate Courts regulated - - 156, 157
from Justices of the Peace in criminal actions - 160
from judgments by persons recovering - 206
in prosecutions for stealing - - 232
on an action of account regulated - - 273
in cases of petition for partition - - 356
may be entered within three years in certain cases - 520
on reports of Referrees, &c. not allowed - 530
Appearance of any person without a power, permitted in a process in *Withernam* - - 365
Appraisers, commissioners and dividers may be sworn by a Justice of the Peace; or Town-Clerk, in case 124
of estates of persons deceased may be appointed and sworn by Justices of the Peace, in certain cases 130
of real estate among heirs or devisees - 130
of real estate to satisfy executions - - 169
Apprentices and minors rescuing cattle, &c. provision in that case 458, 459
gain an inhabitancy, in case - - 608
may be bound by the Overseers of the Poor - 620
and servants, mode of binding out - - 671
absconding to be apprehended by warrant - 672
Aqueducts, proprietors enabled to manage them - 843
Arbitrations established and regulated - - 333
Arson and other malicious burning, punishment of - 228
Assaults with intent to rob, punishment of - - 226
with intent to commit murder, &c. punishment of 230, 231
battery, riding armed, menaces, &c. punishment of, &c. 653
Assay masters of distil houses, to be appointed - - 1001
Assemblies, tumultuous, suppression of - - - 346

Pages.

Aſſes and mules prohibited, going at large - - 601
Aſſeſſors to make out a new warrant to collect remainder of taxes, where Collectors remove - - - 99
may be appointed for towns by the Court of Seſſions, in caſe 266
to aſſeſs upon towns the ſums for which Collectors of Taxes are deficient - - - - 267
of plantations, their power and duty - - 271
their power and duty, when Collectors are taken by execution 272
their appointment and general duty 274, 275, 276, 277, 280, 281
their pay - - - - 276, 277
of common and general fields - - - 288
to appoint new Collectors of Taxes, in caſe - - 304, 524
of pariſhes, &c. to have the ſame powers as Selectmen 326, 652
when delinquent, their eſtates anſwerable for taxes 894
their duty in aſſeſſing taxes for ſchool-houſes - 907
may iſſue new warrants in lieu of ſuch as may be loſt, &c. 927
of pariſhes may omit taxing thoſe who attend public worſhip with ſocieties of different denominations - 933
Attachment by Court of General Seſſions to bring in a criminal, neglecting to proſecute his appeal - - 160
not to be diſcharged by the death of the party - 174
holds good thirty days after final judgment - 207
Attainder veſts the poſſeſſion of the lands, &c. of the offender in the State immediately - - - - 1052
Attorney-General and Attorney for the county, to proſecute delinquent Clerks, &c. - - - 153
to cauſe executions to be extended on perſons indebted to thoſe whoſe eſtates have been confiſcated 173
his ſalary and fees - - - 488
to file information for inqueſts of office - 517, 833
to ſue delinquent County-Treaſurers - 535
to ſue Treaſurers' bonds, in caſe - - 542
to requeſt ſummonſes for witneſſes in criminal caſes 585
Attornies, admiſſion of, regulated - - - 251
not more than two allowed to each party - 252
all perſons may appear at ſuch, with ſpecial powers 493
Audita Querela, proceſs of - - - 55
Auditors, the appointment of in an action of account - 274
Authors' excluſive right of publiſhing their productions ſecured to them 94

B.

BAIL for perſons proſecuting *Audita Querela* proceſs may be granted 59
in civil actions regulated - - - 195
when a man is replevied - - - 363
in a proceſs in *Withernam* - - - 364
in criminal caſes allowable by the Supreme Judicial Court 238
or diſcharge to be granted to perſons committed for capital crimes and not indicted at the ſecond term, &c. to others 240, 241
Banns of matrimony, proceſs when forbidden - - 322
Bank, Maſſachuſetts, incorporated - - 115, 544
Maſſachuſetts, frauds in, prevented - - 162
National, frauds againſt, how puniſhed - - 250
Union, incorporated - - - 547, 562
Nantucket, incorporated - - - 664, 760

INDEX.

Pages.

Bank, Merrimack, incorporated - - 692, 697, 891
Portland, incorporated - - - 858
Eſſex, incorporated - - - 863
unincorporated, prohibited - - - 883
not to iſſue leſs than 5 dollar bills, except Nantucket Bank 884
Glouceſter, incorporated - - - 885, 936
Barriſters at law, appointment of by the Supreme Judicial Court 70
Baſtard children, Act to prevent the deſtroying and murdering of 222
penalty when a woman ſhall conceal her pregnancy, and be delivered in ſecret, or conceal the death of 222
ſupport of - - - - 299
Beaſts ſtrayed, &c. proceſs reſpecting - - - 449
Beef, Pork, Fiſh, &c. exportation of, regulated - 210, 909
aſſize of, regulated - - 399, 515, 974
mode of weighing, regulated - - 883
Inſpector-General of, appointed - 909
Beggars, rogues, idle perſons, vagrants, &c. puniſhed, &c. 411
Benefit of clergy taken away in all caſes - - 227
Berkſhire County diſtricted for the choice of Regiſters - 421
Billiard tables, penalty for playing for gain - - 826
Births and deaths, Act for recording them - - 725
Blaſphemy, how puniſhed - - - 69
Boards, admeaſurement of - - - 103, 166, 164
Board of Health to be choſen, &c. in Boſton - - 867
Bodies politick of every nature, may proſecute and defend ſuits 139
Bonds to be given by executors, adminiſtrators and guardians living out of the State - - - 84, 85
to be given by Pilots - - - 101
to be given by executors - - - 114
to be given by adminiſtrators, executors and guardians where real eſtate is ſold - - - 119
to be given by guardians of minors where real eſtate is ſold 121
form of, given by adminiſtrators - - 127
to be given by guardians - - - 136
to be given by Sheriffs - - - 153
given in Probate Courts, on appeals - - 156
in reviews to ſtay execution - - - 168
required of Regiſters of Deeds - - - 175
to be given by debtors for the liberty of the yard - 221
given by fathers of baſtards, may be continued - 300
to be given by the County-Treaſurers - - 319
given to Judge of Probate, ſuable in the Supreme Judicial Court only, and in the name of ſaid Judge 358, 430
Probate, how to be given in the Supreme Court of Probate 358
to be given by Clerks, &c. to keep correct records 359, 360
given by Clerks of Courts, when to be put in ſuit 360, 361
to be given when actions are reviewed - - 370
to be given to the Judge of Probate previous to ſueing for damages for decoying away an inhabitant - 409
to be given when execution is taken on Probate judgments 431
Probate, when ſued, what proceedings to be had - 431
to be given by the Treaſurer of the Commonwealth 467
to be given by Inſpectors of pot and pearl aſhes - 513

Pages.

Bonds to be given by claimants on forfeiture of perſonal property 612
to be given before execution or writ of ſeizin be ſued out in certain caſes - - - - 809
Bonfires in lanes, &c. prohibited - - - 774
Boots, &c. manufacture of, encouraged - - 903
Boundaries of common places, and highways aſcertained - 374
on the ſalt water, to run to low-water-mark not exceeding 100 rods - - - - 966
of the Province of Maſſachuſetts-Bay - 968
Bowdoin-College eſtabliſhed - - - - 641
Breach of priſons, &c. puniſhment of, &c. - - 219
Bread manuafacture, and ſale of, regulated - - 850
Breaking and entering houſes, veſſels, ſhops, &c. to ſteal, &c. puniſhed 233
Bribery and corruption, Act againſt - - - 1039
Bricks, ſize of, &c. regulated - - - 993
Bridges, private, how repaired, &c. - - - 398
Brooks, ponds, rivers, &c. fences, in certain caſes - - 285
Burglary, puniſhment of - - - - 224
Burning, barns, &c. malicioufly, &c. puniſhed - - 228
Buoys, &c. ceded to the United States - - - 495
Butter, &c. exportation of, regulated - - 254, 928, 941
By-Laws, orders, &c. for the houſes of correction to be made by the Courts of Seſſions - - - - 411

C.

CALF-Skins, exportation of, &c. regulated - - 415
Capital caſes, Act reſpecting place of trial, ſtanding mute, and challenges, in certain inſtances - - 711
Caſks, aſſize of, regulated - - 974, 976, 991, 1043
Caſtle-Iſland ceded to the United States - - - 823
Cattle breaking into common and general fields, fences good judgment to be given in favour of the proprietor, in caſe of replevin - - - - 290
Act empowering towns to reſtrain their going at large 902
Cauſes, civil, Act for rendering the deciſion of, as ſpeedy, &c. as poſſible - - - 333
Certificates from the Judges of Probate before ſale of real eſtate 119
of the aſſeſſment of any State tax, form of - 279
of poor priſoners for debt, having taken the oath 402, 506
of the Secretary or Treaſurer of the United States, under oath, to be admitted as evidence in certain criminal caſes - - - - 543
of loan on the Commonwealth debt, form of 603
form of, to exempt Quakers from taxes for the ſupport of public worſhip - - - 797, 932
or caption of a depoſition, form of - 802, 804
of beef being inſpected before clearing out - 911
of butter being inſpected before clearing - 929
Challenges to Jurymen regulated - - - 189
for duels, puniſhment for giving or accepting 194
of Jurors, peremptorily, in treaſon - 1050
Chancery upon priſoners' bonds, not allowed in caſe - 221, 222
upon all penal inſtruments allowed - - 251
hearing in, on probate bonds, in the Supreme Jud. Court 357

Pages.

Chancery not to operate on judgments on penal bonds, but only on executions iſſued thereon - - 855
Charcoal-baſkets, dimenſions of, &c. - - - 763
Charter of William and Mary, extract from - - 967
Cheats and frauds, puniſhment of - - - 249
Children, poſthumous, how to inherit - - - 111
not having legacies, &c. proviſion in that caſe - 111
to inherit equally - - - 125, 464
dying before twenty-one, their ſhares deſcend equally to brothers, &c. - - - 125
dying after twenty-one, mother to inherit equally with brothers, &c. - - - - 125
having portions delivered by the inteſtate, proviſion in that caſe - - - - 126
their ſhares being divided unequally, to be liquidated 126
advances made to them to be conſidered in ſettling eſtates 126
Churches incorporated ſo far as to take donations - 282, 283
Civil Law to regulate deſcents - - - 125
magiſtrates, officers and ſoldiers, when to be delivered over to the - - - - - 345
Claims on inſolvent eſtates, when rejected, mode of determining them 183
of creditors to the eſtates of deceaſed perſons limited 460
of executors and adminiſtrators, in Probate Court, to be ſettled by Referees - - - - 466
Clapboards, dimenſions of, regulated - - 105, 164
Clergy, benefit of, taken away in all caſes - - 227
Clerks of Courts, to ſign writs of *Audita Querela* - - 56
——— to iſſue alias executions againſt the bodies, &c. of Sheriffs, when removed - - 155
——— to ſign warrants of diſtreſs, &c. in caſe, &c. 173
——— not to be Regiſters of Deeds - - 177
——— to iſſue *Venires* for Jurymen - 184, 185, 186
——— to give bond to keep correct records 359, 360
——— to certify coſts in criminal ſuits - 532
of Courts of Common Pleas, appointment and duty of 73
——— to receive deeds in certain caſes 176
——— to be Clerks of the Supreme Judicial Court - 784
of General Seſſions, appointment and duty of - 75
——— to receive votes, &c. for County Treaſurers 319
——— to record marriages - - 323
——— to account for exciſe duties - 734
of the Peace, to tranſmit to the Selectmen a liſt of licenſed perſons - - - - 375
of proprietors of common lands, their duty, &c. - 139
——— of common and general fields, their duty, &c. 288
of Quaker meetings, to certify marriages - 324
of Supreme J. Court, appointment and duty of - 71
——— and General Seſſions, to certify fines to the Treaſurer, &c. - 153, 154
of Towns, to give copies of proprietors' records, in caſe 142
——— to record Searchers of Beef, Pork, &c. 210, 211
——— to ſwear Aſſeſſors, in caſe - - 275
——— to read the Riot Act annually in town-meetings 347

Pages.

Clerks of Towns their duty reſpecting ſtrays and loſt goods 450
——— their duty reſpecting impounded ſwine - 451
——— their duty reſpecting impounded cattle - 457
——— to keep the Jury boxes, &c. - - 631
——— to record births and deaths - - - 725
of Towns and Courts, duty in the choice of Petit Jurymen 187
——————— to ſubpœna witneſſes - 205
of Towns and Diſtricts, to record and return marriages 323
in the office of the Commonwealth's Treaſurer, penalty for their fraud - - - - 542
Coin, Act againſt counterfeiting it - - - 329
Collaterals not admitted by repreſentation beyond brothers' and ſiſters' children - - - 125
Collectors of Taxes, to command aſſiſtance in collecting taxes of adjacents - - - 95
their power with reſpect to non-reſidents 95
removing out of the Commonwealth, proviſion in caſe 99
to exhibit an account of monies received every two months - - - 179
liable to diſtreſs, if neglectful of duty 266, 268, 270, 1014
dying, proviſion in that caſe - 267
refuſing to deliver their aſſeſſments to Aſſeſſors, in caſe, to be committed - - 272
when appointed in the room of others deficient, how to proceed - - 272, 273, 307
when abſconding, to be outlawed - 273
their general power and duty 304, 305, 308, 309
and Conſtables, dying before taxes are collected 304
empowered to execute deeds of lands ſold 307
their power when perſons are about to remove out of the Commonwealth - - 307
when impeded in executing their duty, may require aid - - - - 307
their fees - - - - 311
perſons exempted from ſerving as - 325
their duty when perſons abſcond, leaving effects 409
to have remedy againſt the agents of abſconding debtors for taxes - - 409, 410
empowered to ſue in certain caſes - 465
their duty where perſons go to gaol - 507
inſane or infirm, new ones to be appointed 524
to give forty-eight hours notice of the ſale of perſonal property - - 525
mode of ſerving executions on them - 525
their powers in collecting taxes for ſchool-houſes 907
College, Williams', eſtabliſhed - - - 598, 728
at Brunſwick, eſtabliſhed - - - - 641
Harvard, incorporated - - - 961
Colonies of Maſſachuſetts-Bay, and others, united and incorporated 967
Commiſſioners on inſolvent eſtates, their power and duty - 182
——————— to adminiſter oaths, in caſe 490
of Sewers, appointed - - - 721

Pages.

Commiſſions of Juſtices expiring, proviſion in that caſe - 429
Committee by Judge of Probate to divide inteſtates' eſtates - 129
of Pariſhes, &c. power as Selectmen, in caſe - 326
Common and general Fields, regulated - - 287, 655
unimproved, no fence required - 291
Commoners and proprietors to manage their intereſt - 141
Common Lands of deviſees and heirs, to be divided - - 129
and wharves, and other real eſtate, regulated 138
how to be fenced when one improves in ſeveralty 285
Common Nuiſances prevented - - - - 241
Common Sewers regulated - - - - - 752
Commonwealth, eſtates to accrue to, in default of heirs - 125
accounts, &c. againſt, limitation of - 215
proceſs to recover lands belonging to - 516
debt of, &c. proviſion for by loan - 603
Complainants in an *Audita Querela*, when in gaol on execution, may be enlarged - - - - - 59
Complaints for affirmation, &c. on *Audita Querela* judgments - 58
for affirmation of judgments, &c. - - 72
to affirm Juſtices' judgments, &c. regulated - 149
for affirmation of probate decrees - - 157
form of, againſt an Aſſeſſor, &c. for not taking his oath 275
form of, &c. by Surveyors of Highways - 390
againſt rogues, idlers, brawlers, &c. - - 411
againſt Africans or Negroes - - 413
may be entered at any term of the Supreme Judicial Court, for affirmation, &c. within one year - 519
for reviews in civil actions, may be within three years 520
Conditional Sentences allowed in criminal caſes - 231, 448
Confiſcated Eſtates, how levied upon by execution - 173
of Conſpirators and Abſentees 1053, 1055, 1060, 1061, 1067, 1068, 1069
Conſtables, to execute Coroners' warrants - - 150
to ſummon a Jury of Inquiſition - - 150
to ſerve and return *Venires* for Jurymen - 185
neglecting their duty in the choice of Petit Jurors 189
to warn town-meetings, &c. - - 313
perſons exempted from ſerving as - 314, 325
refuſing to ſerve, penalty - - 314, 326
to ſerve warrants of commitment from Overſeers 436
to ſerve proceſs in replevin, where the Sheriff or his deputy are parties - - - 480
to pay all fines, &c. to the County-Treaſurers, in certain caſes - - - - - 532
their fees - - - - - 706
to ſerve writs in perſonal actions, not exceeding 70 dollars damage - - - - 709
their authority to carry priſoners to gaol, &c. through any towns in their county - - - 725
their duty, &c. in Watches and Wards - 772
and Sheriffs, to apprehend profane ſwearers, &c. 830
(See Collectors of Taxes.)

Pages.

Conſtitution of the United States - - - 1
of the Commonwealth of Maſſachuſetts - 18
———— amendment in, ratified - - 647
Contempt, in a Probate Court, puniſhed - - 155
Continuance of a ſuit granted to an executor or adminiſtrator 174, 460
of a cauſe, againſt the county, in caſe - - 219
of ſuits on probate bonds - - - 431
of a ſuit, after one year, not grantable, of courſe, to an executor or adminiſtrator - - - 462
of Truſtee actions, regulated, &c. - - 675
Contracts for the ſale of real eſtate, by executors and adminiſtrators 121
for ſale of land, void, unleſs in writing - 132
uſurious, what are ſo - - - 166
for ſale of goods over £. 10, void, unleſs in writing - 427
Conviction for profane ſwearing, form of - - 830
Convicts may be diſpoſed of in ſervice, for the payment of coſts 862
Coparcenies, tenancy in, regulated - - - 161
Coparceners may be compelled to divide - - 161
Cord-Wood, dimenſions of, and frauds prevented therein - 763
Coroners to ſerve writs of *Audita Querela*, where the Sheriff or his deputy is a party - - - 58
their duty and power - - - - 150
to iſſue a warrant to ſummon a Jury - - 150
to return Jurors, &c. *de talibus circumſtantibus* - 150
their charge to Jurors on an inqueſt - - 151
to recognize witneſſes - - - 152
the form of their inquiſition - - - 152
to inform Juſtices of the Peace of felony, &c. - 153
to take inqueſts on the bodies of dead duelliſts - 194
to ſerve warrants for taxes againſt Sheriffs - 269, 282
to ſerve proceſs in replevin, in caſe - - 480
to execute precepts, when the office of Sheriff is vacant 554
their fees - - - - - 700
in the counties of Hancock and Lincoln, their doings made valid - - - - 940
Corporations to proſecute and defend ſuits at law - 139
and proprietors, ſervice of writs upon - - 141
Coſts on a writ of *Audita Querela*, paid by the indorſer - 56
on the reverſal of an outlawry - - - 78
to be awarded reſpondents, on petitions for ſale of real eſtate 121
before Juſtices of the Peace, recoverable, &c. - 147
to be taxed for one fourth the damage only, in the Common Pleas, in caſe - - - - 149
in Probate Courts, on appeal, how recovered - 157
on a proceſs for forcible entry and detainer - - 192
where a default is taken off - - - 206
to be recovered againſt plaintiff, in caſe of a non-ſuit or diſcontinuance - - - - 206
in all actions allowed the party prevailing - 206
ſecured againſt indorſers of writs, in caſe - - 207
where ſeveral actions are brought that might have been in one 207
where actions are brought in the wrong county - 207
paid by gaolers, where priſoners are regained - - 220
ſtipulated for, where perſons are ſecretly conveyed away 240

Page.

Costs where a disclaimer is pleaded, regulated - - 354
full, on the report of Referees, unless otherwise awarded 354
one half only allowed in actions of assault, &c. where the Jury find damages under £. 4 - - - 354
one fourth allowed in certain cases, unless the Court think otherwise - - - - 354
on trial of partition of real estate - - - 356
on a process *de homine replegiando*, regulated - 364
double, given in reviews, in certain cases - - 370
on petitions for reviews, regulated - - 425
on inquests of office where the Commonwealth is concerned 517
in criminal cases, regulated - - 532, 659
not allowed to witnesses summoned in criminal cases, unless requested by the Attorney-General - - 535
for and against Trustees, regulated - - - 678
how to be adjudged on a bill in equity in favour of the Commonwealth - - - - - 834
how to be paid when convicts have been imprisoned 3 months 862
Counterfeiting coin, &c. - - - 329, 330, 331, 332
County charges, how defrayed - - - 63, 556
taxes, how apportioned, collected and paid - 64, 556
answerable for escapes, in case - - 218
of Hancock, established - - - 476
of Washington, established - - 477
of Norfolk, established - - - 569, 577
——— and Plymouth, bounds altered - 806
of Kennebeck, established - - - 838
Courts, proceedings in licensing sale of real estate - 120
may suspend hearing suits when parties die, until next term 122
to enter up judgment against the estates of deceased persons 122
to cause partition of lands, &c. to be made - 145
to issue executions against persons neglecting to pay charges of division - - - - 145
to appoint persons to act for absent persons, on partition of an estate - - - - 146
to make up judgment in actions on default - 206
discretionary power in punishing theft - - 231
to award conditional sentences, in case - 231, 448
how to make up judgment in causes brought to recover forfeitures, and in real actions on mortgages - 251
how to make up judgment on petitions for partition 356
to inspect the conduct of their several Clerks and Registers 360
empowered to tax costs in criminal cases - - - 532
to take acknowledgments of deeds to bar entailments 542
empowered to adjourn from places infected by sickness 794
Judicial, times of the sitting of some of them altered 800
Courts, Supreme Judicial, impowered to take cognizance of matters heretofore cognizable by the late Superior Court 50
established, its power and duty 69, 70, 331, 783, 1047, 1052
writs and processes of, how tested, sealed and signed 70
to adjourn, in case - - - 71
times and places for holding it - 92, 514
to license executors and administrators to sell real estates for payment of debts and legacies - - 118

Pages.

Courts, Supreme Judicial, to give notice to all parties previous to the paſſing upon repreſentations for the ſale of real eſtates - - - 120
authorized to empower executors or adminiſtrators of deceaſed perſons to convey their real eſtate according to their contracts - - - 120
to authorize the ſale of the real eſtate of minors, and perſons *non-compos*, for their benefit - 121, 136
to be the Supreme Court of Probate - 156
power of bailing in all caſes - - 238
may puniſh officers diſobeying writs of *Habeas Corpus* 239
authorized to ſentence to hard labour, at diſcretion 249
in the county of Lincoln, firſt appointed - 264
to hear and determine all queſtions of divorce and alimony 303
two of the Juſtices of, to give certificates of convictions for forgery, &c. to the proſecutors - 331
how to render judgment on probate bonds - 357
to authorize married women to ſell real eſtate for their ſupport - - - - 404
may grant reviews after judgment, &c. - 423, 520
Juſtices of, their ſalaries eſtabliſhed - - 487
time for holding it at Salem altered - 494
may allow complaints to be entered after the term appealed to - - - 519
to grant reviews in any caſes - - 519, 520
places for holding it in the county of Lincoln, for Lincoln, &c. - - 514, 569, 878
times and place for holding it, and other Courts, in the county of Hampſhire - - - 632
Juſtices' and Clerks' fees - - 704
to have juriſdiction in Suffolk, of crimes committed in Nantucket - - - - 736
additional term in the county of Norfolk - 829
proceedings therein, in caſes of bills in equity in favour of the Commonwealth - - - 834
additional Juſtices and Solicitor-Gen. appointed thereto 925
times and places for holding it in the ſeveral circuits 926
Courts of Common Pleas, eſtabliſhed, their power and duty 71, 72, 662
to licenſe executors and adminiſtrators to ſell real eſtate for payment of debts and legacies - - 118
to give notice to all parties previous to the paſſing upon repreſentations for the ſale of real eſtates 120
authorized to empower executors or adminiſtrators of deceaſed perſons to convey their real eſtate according to their contracts - - - 120
actions of £. 4 and under, not to be originally brought before them - - - 149
to have cognizance of the reports of Referees appointed before Juſtices of the Peace - - 334
to liberate perſons from work-houſes, &c. in caſe 437

INDEX.

Page.

Courts of Common Pleas, to grant reviews and appeals in certain cases 520
to hear complaints for the removal of paupers, &c. 627
to examine annually the sufficiency of the security of Sheriffs, &c. - - - 662
to have cognizance of complaints in behalf of apprentices, &c. - - - 671
Justices' and Clerk's fees - - - 702
to appoint Clerks provisionally - - 784
to take cognizance of complaints for flowing lands 814
Chief Justice to be appointed by the Governor 827
Courts of General Sessions of the Peace, to order county taxes, &c. 63, 556
established, general power, &c. - 74, 556
to order where proprietors' records shall be kept 142
to settle with the Sheriffs about fines, &c. - 154
when appellants fail to prosecute, their proceedings regulated - - - 160
to bring criminals into Court by attachment, &c. 160
to assess taxes for erecting and repairing gaols, and for escapes, &c. - - - 218
to provide separate apartments for debtors, and to inspect the prisons - - - 221
to fix the price of prisoners' fare, &c. - 222
to suppress nuisances - - - 242
to appoint Assessors for towns, in case - 266, 277
may remit the penalty incurred by Assessors refusing to serve - - - - 276
to relieve by abating taxes in certain cases 280, 288, 289
to make partition of common and general fields 291
to proceed against Constables refusing to serve - 315
to approve of all town by-laws - - 317
to disqualify Justices and ministers neglecting to certify marriages - - - 323
to proceed against persons refusing parish collectorships 326
to displace Registers of Deeds for misconduct 361
power respecting highways and private ways 372, 799
to restrict licensed houses - - 380, 556
to make orders for the houses of correction - 411
to appoint masters for the houses of correction 411, 812
times and places for holding them - 496
in the counties of Plymouth and Cumberland, altered 509
power to adjourn when there is not a choice of Register of Deeds - - - 515
times and places for holding them in Berkshire 519
Justices' and Clerks' fees - - 703
to appoint appraisers, &c. of land to be conveyed to the United States by individuals - 743, 823
to license ferrymen - - - 749
to apportion a tax for Watches, in certain cases - 773

Pages.

Courts of General Seſſions of the Peace, to determine damages by pulling down buildings at fires - 780
may liberate convicts when impriſoned three months for coſts - - 862
to licenſe weares, &c. obſtructing fiſh in rivers. 992
may apportion the expenſe of opening fluice-ways for fiſh on ſeveral towns - - 1021
may regulate dams ſo as to prevent obſtructing the paſſage of fiſh - - 1026, 1027, 1028, 1029
Courts of Common Pleas and General Seſſions of the Peace, times and places for holding them - - 496
for the counties of Hancock and Waſhington - 503
for the county of Cumberland - 509
for the county of Berkſhire - - - 519
for the county of Waſhington - 553
for the county of Cumberland - - 509
for the county of Worceſter, times of holding them altered - - - - 560
another term for holding them in the county of Worceſter - - - 574, 944
times of holding them in the county of Briſtol altered 636
an additional term for holding them in the county of Middleſex - - - 659
times for holding them altered, &c. in the county of Lincoln - - - 661, 889
times altered for holding them in Middleſex, Hampſhire, Briſtol, Worceſter and Berkſhire - - 697
time of holding them at Portland altered - 744, 891
times for holding them in the county of Hancock altered 815
times of holding them in the county of Waſhington altered 852
time of holding them in the county of York altered 936
times for holding them within the county of Hampſhire preſcribed - - - - 937
Court, Municipal, in the town of Boſton, eſtabliſhed - 923
Courts-Martial - - - - 342, 343
Courts of Probate, eſtabliſhed - - - 155
Supreme, Supreme Judicial Court to be - 156
appeals therefrom regulated, and proceedings in ſuch caſe - - - - 156, 157
for the county of Hampſhire, times, &c. for holding 384
for Nantucket and Dukes county - - 514
eſtabliſhed at Fryeburg, in the county of York - 878
Creditors judgment, proceſs againſt the effects of their abſent debtors 428
to inſolvent eſtates, authorized to ſue executors, &c. in caſe 639
their remedy againſt the effects of debtors in the hands of Truſtees - - - - 673, 820
Crier's fees - - - - - 708
Crimes, where benefit of clergy was heretofore allowed, how puniſhable - - - - 227, 820
Criminals avoiding proceſs of outlawry againſt them - 76
of other States, how to be ſent on for trial - 86

Pages.

Criminals of all kinds, liable to be arrested, &c. before Justices of the Peace - - - - - 159
not to be removed from one gaol to another without a conditionally sentenced, &c. in case, &c. 231, 448
writ of *Habeas Corpus* - - - 239
when to be tried, and where and when to be bailed or discharged - - - - 241
under sentence to hard labour, to be sent to Castle-Island 249
prosecutions, certificates of officers' evidence in - 543
offenders, &c. trespasses, assaults, &c. punishment of 652
Act respecting their place of trial, standing mute, and challenges, in certain capital cases - 711, 1050
Cullers of Fish to be chosen annually - - 212

D.

DAMAGES done to improved lands adjoining Connecticut-River by Timber, how compensated - - 53, 335
to be declared for by Complainant, in an *Audita Querela*, the same as he might recover by other subsequent action - - - - - 58
how ascertained upon default - - 205, 206
sustained by bad highways, how recoverable - 389
for decoying away an inhabitant, may be sued for by any friend - - - 408, 409
by horses, &c. going at large, prevented - 443, 601
feasant cattle taken, process for satisfaction - 456
by mischievous dogs, act to prevent - 528, 838
by pulling down buildings to stop fire, when to be compensated - - - - 780
when occasioned by flowing lands, by mill dams 729, 814, 922
Dancing in taverns, prohibited, &c. - - - 377
Death of a Justice who has taken acknowledgment of debts, &c. 83
of a party pending a suit, provision in that case - 122, 174
violent or casual, inquisition to be made - - 150
Debts, a speedy method for recovering them, provided - 79
upon recognizances governed by the law merchant 82
of the Commonwealth, provision for by loan, &c. 603, 682, 718, 751, 817
action of, the remedy for recovering all forfeitures 614
action of, lies on judgments - - - 720
of Absentees, provision made for the payment, &c. thereof 1061, 1067, 1068
Debtors to be allowed apartments belonging to prisons, and liberty of the yard - - - - - 221
in execution, spending property above £.10 without offering it to their creditors, guilty of fraud - 427
poor, and committed by execution, Acts for the relief of 401, 466
to be discharged where process issues against their effects upon the Act against fraud - - - 428
committed for taxes, relief of - - 505
secreting their effects, process to attach them 673, 820
Dedimus potestatem grantable by Judges of Probate - 247
Deeds given by guardians, executors and administrators, good 119

Pages.

Deeds ſigned, ſealed, acknowledged and recorded, to convey real eſtate - - - 132, 962, 983
good againſt the grantor, if not acknowledged nor recorded 133, 963
proof of, how to be made when the grantor is dead 133, 984
when grantors refuſe to acknowledge them, proceedings in that caſe - - - - 133
and mortgages executed according to former laws, good 134
of proprietors upon ſale of land for taxes, good - 140
by officers on diſtreſs, warrants good - - 173
Regiſters of, mode of chooſing, &c. - - 175
to be received by the Clerk of the Common Pleas when there is no Regiſter - - - - 176
not regiſtered in Berkſhire county by the Regiſter, void 422
to bar entailments, muſt be witneſſed by two or more witneſſes - - - - 542
words of conveyance to be uſed therein - - 962
from Indians without licenſe, void - - 989
Defamation, action of, limited to two years, &c. - 353
Default taken off, in caſe, &c. alſo judgment on - 205, 206
Demands made and annexed to rules for Referees - 333
in futuro againſt perſons dying, proviſion in that caſe 460
Demurrers, judgments on, &c. may be appealed from - 206
Depoſitions of witneſſes to wills, admitted, in caſe - 247
of inhabitants of towns, &c. admitted in caſes where the corporation is intereſted - - 557
mode of taking them, &c. - - 800
may be taken in Court - - - 803
foreign may be uſed - - - 803
in perpetuam - - - - 804
Deſcent of eſtates, regulated - - - 124
Deviſees dying before the teſtator, their deſcendants to take the eſtate deviſed - - - - 111
may have partition of real eſtate, by order of the Judge of Probate - - - - 129
land lying in common with other eſtates, how divided 130
and heirs liable to pay demands againſt perſons deceaſed, in caſe - - - - 461
Deviſes of lands or tenements, how to be made - - 109
——— how recoverable - - 110
to perſons atteſting wills, to be void - - 112
to one for life, and remainder to children, &c. in fee, how conſtrued - - - - 543
of lands by Indians, void, unleſs approved by the General Court - - - - 1030
Diſclaimer may be pleaded, and its effects when pleaded 354, 732
Diſtilling of ſtrong liquors, regulated - - 1001
Diſtreſs, warrant of, in favour of the Commonwealth - 172
Diſtribution of inteſtate property to be equal among children 125, 464
Diſtricts to have the privilege and power of towns - 318
of towns for the ſupport, &c. of ſchool-houſes, &c. 470, 998

Pages.

Diſtricts of the Commonwealth, for the choice of Senators - 615
——— for the choice of Repreſentatives in Congreſs - - 648, 740
Divorce, effect of on the property of the parties - 217, 302
cauſes of - - - - 301
not to be decreed if the cauſes be colluſive - 302
trial of, muſt be in the county where the parties live 303
libel for, how to be filed - - - 303
Divorced perſons may marry except the guilty party - 217, 218
——— not to cohabit again, on penalty - 303
——— for adultery not to baſtardize their children 303
Dogs, miſchievous, liberty to kill them, and damages done by them to be paid for - - - 528, 529
Donations to pious and charitable uſes, regulated - 282
Dower to be aſſigned widows, in one month by the heir 142, 964
to be ſet off after judgment by three diſintereſted freeholders - - - - 142
damages to be recovered for from the time of a demand made - - - - 142
aſſignable of rents, and iſſues of lands - 143
allowed when land is ſet off by execution for debt 171
allowed, notwithſtanding inſolvency - - 183
how to be aſſigned anciently - - 967
in confiſcated eſtates - - 1055, 1059
Drains and common ſewers, regulated - - 752
Drunkards, debauchees, &c. to have guardians - - 137
idlers, &c. to be ſent to the houſe of correction - 436
Duelling, puniſhment of - - - - 193
judgment againſt thoſe concerned in - - 194

E.

EDUCATION of youth provided for - - 469, 906
Ejectment, lies to recover redeemable lands ſet off by execution 170
for lands on a perſons own ſeizin, limited to 30 years 328
in actions of the defendants own bond to be taken to anſwer - - - 732
the defendant, on diſclaiming, to recover coſts, unleſs, *&c.* 732
Elections of State Repreſentatives, regulated - - 716
meetings therefor not to be appointed on days of military duty - - - 828
Embezzlement of the property of deceaſed perſons or idiots, &c. proviſion againſt - - 123, 135
Engine-Men, Acts for the appointment of - 262, 933
their duty and privileges - 263, 264, 658
Entry, of actions, regulated - - - 73
forcible and detainer, proceſs for, regulated - 190
into lands - - - - 328, 329
Entailments barred by deed of tenant in tail - - 542
Equity remedies in given - - - 251, 834, 853
of redemption in mortgaged eſtates, &c. 447, 448, 853, 855, 995

Pages.

Escapes from prisons, who are answerable for them - 218
penalty for gaolers suffering them voluntarily or negligently - - - - 219, 220
Estates not devised nor bequeathed, to be distributed as intestate 112, 1000
of persons out of the Commonwealth, how settled - 246
of Conspirators, confiscated - - - 1053
of Absentees, confiscated - 1055, 1060, 1061, 1069
Estates, Insolvent, distribution of - - 182
creditors not making out their demands, to be barred 183
proceeding on the bonds of executors and administrators 357
Commissioners to administer oaths, &c. - 490
Estates, Intestate, descent and distribution of 124, 126, 464, 967, 969, 993, 1009, 1010
Estates, Personal and Real, of deceased persons, liable for debts 125
Estates, Real, held to respond the judgment in outlawry and the amount of recognizances to the use of the government 78
of testators when taken in execution, legatees, &c. to make contribution - - - 114
of deceased persons, all may be sold, in case - 118
mode of obtaining license by executors, &c. to sell 118, 119, 1000
mode of obtaining power to sell, according to contracts of deceased persons - - 120
all or a part may be settled on one owner 126, 145, 1000, 1030
of minors and persons *non-compos*, may be sold for their benefit - - - 121, 981
of persons deceased, liable to be taken by execution 121
Judge of Probate to issue a warrant for dividing among heirs - - - 126, 129
partition of - - 129, 144, 1003, 1040
sale of by administrators, &c. their oath previous to 131
agreements concerning the sale of, to be in writing, &c. 132
held at will only, unless by deed properly executed 132
mode of transferring by deed, &c. 132, 961, 962
of proprietors in common, regulated - 138, 504
——————— may be sold for non payment of taxes - - 140, 1015, 1016
title to, when plead before a Justice, proceedings in that case - - - 147, 796
mode of extending executions upon - 169
taken on execution, redeemable in one year 170
how to be sold to satisfy warrants of distress in favour of the Commonwealth, &c. - 172, 1014
confiscated, how levied on by executors - 173
when conveyed by mortgage, how redeemable 251
acquired by gaming, &c. cannot be held - 293
liable to be sold for payment of taxes 306, 1007, 1008
mode of sueing for, &c. regulated - - 326
sale of, by married women, in case - 404

Pages.

Eſtates Real, mortgaged, or on execution, party dying, proviſion in that caſe - - - 446
improvement of, by executors and adminiſtrators, aſcertained - - - 466
entailments of, barred by deeds, &c. - 542
entailed, made liable for debts of tenant in tail 543
of non-reſidents, mode of ſelling for taxes - 681
not to be ſold within one year after being recovered by judgment, in certain caſes - - - 810
of deceaſed debtors, liable on joint contracts - 896
(See Lands.)

Evidence of abſconding in outlawry, what - - 77
certificates of certain officers under oath, admitted as ſuch, in certain criminal caſes - - 543
mode and nature of, where marks are cut out of logs 612

Exciſe on retailers and ſundry officers, &c. - 734, 741

Executions vacated in certain caſes by an *Audita Querela* - 55
not to iſſue on a judgment appealed from - 72
form and nature of, on a recognizance for debt - 81
may be extended on real eſtate of deceaſed perſons 121
againſt perſons neglecting to pay charges on partition of lands, &c. - - - 145, 355
to be iſſued by Juſtices of the Peace on their judgments 147
againſt Sheriffs, form of, not ſatisfied, proceſs on, &c. 154
Act directing the iſſuing, extending, and ſerving of 168
to iſſue after twenty-four hours, and within one year from the judgment - - - 168
when returnable, and when an *alias* may iſſue - 168
Scire Facias, when to iſſue thereon - - 169
may be levied on real eſtate - 169, 982, 994, 999
extended on real eſtate, muſt be recorded in three months 169
may be ſatisfied with diſburſements, &c. in one year after being levied upon real eſtate - - 170
may be extended on rents or equities of redemption 171
when extended on perſonal property, proceſs, &c. 171
how to be levied on judgments againſt debtors to perſons whoſe eſtates have been confiſcated - 173
againſt Collectors, at the requeſt of Selectmen or Aſſeſſors 179
nature of, in proceſs of forcible entry and detainer 192
their ſeveral forms and natures - 200, 201
form of, how and when made returnable - 204, 229
to be extended in thirty days, or the attachment, &c. will be loſt - - - 207
againſt the county, how extended - - 219
when levied on real eſtate not belonging to the debtor, remedy - - - 244, 245, 501
on an action of account, nature of - - 274
how awarded on adminiſtration bonds 357, 359, 431
in reviews not ſtayed, unleſs bonds be given - 369
diſcharged, *ſub modo*, by the debtors ſwearing out of gaol 402

Pages.

Executions how to run againſt one who has ſworn out of gaol 403
againſt debtors ſecreting property, or ſpending £.10 in gaol 427
iſſuing on Probate judgments - - 431
not to be given out, in certain caſes, until bond be given 809
Executors living out of the State, to give bond with ſureties - 84
moving out of the State, to ſettle their accounts - 84
neglecting to ſettle their accounts, adminiſtration *de-bonis-non* to be granted - - - 84, 85
to cauſe Probate of Wills to be made within thirty days after teſtator's death - - - 113
refuſing their truſt, adminiſtration with the will annexed to be granted - - - 113
in their own wrong, what perſons chargeable as ſuch 113
to give bond to return an inventory and ſettle accounts, or to pay debts and legacies - - 114
neglecting to give bond, or under age, proceedings in ſuch caſes - - - - 114
may be ſued by co-executors, or others, being reſiduary legatees - - - - 114
not giving bonds, muſt not intermeddle - 114
living out of the State, inſane, &c. may be removed 114
of an executor, not the executors of the firſt teſtator 115
or adminiſtrators, marrying, if women, loſe their power 115
(See Adminiſtrators.)
Executors and Adminiſtrators, mode of obtaining licenſe to ſell real eſtate, and to give notice of the ſale - 118, 119
may be empowered to convey real eſtate of deceaſed perſons according to their contracts - 120
neglecting to raiſe money out of eſtates, &c. guilty of waſte - - - - 122
writs of attachment not to run againſt their bodies, unleſs - - - - 122
to proſecute or defend actions where parties die, pending the ſuit - - - 122, 680
committing waſte, to be anſwerable out of their proper eſtate - - - 148
entitled to a continuance of ſuits againſt them 174, 462
to repreſent the condition of inſolvent eſtates 182
on inſolvent eſtates, actions not to be ſuſtained againſt them - - - - 183
not anſwerable out of their own eſtates on any ſpecial promiſe, unleſs in writing, &c. - 427
may ſue out a writ of review - - 445
to make ſale of mortgaged land, &c. - 446
to give notice of their appointment - - 459
ſuits againſt them limited - 459, 460, 526, 558
not held to defend ſuits commenced within 12 months 460
mode of perpetuating evidence of their notifying the ſale of real eſtate - - - 461
not allowed a continuance of a ſuit, of courſe - 462

INDEX.

Pages.

Executors and Administrators, their claims against estates, &c. to be settled by reference in Probate Court - 466, 467
of insolvent estates, not settling their accounts, liable to the creditors' suits - - 639
of deceased debtors, liable to suits on joint contracts 895
Executors, Administrators and Guardians, to give bond previous to the sale of real estate - - 119
oath, previous to the sale of real estate - 131
not bound to plead specialty - - 137
Exemptions from serving as Town Officers - - 314
from serving as Parish Officers - 325
Engine-Men, from military duty - - 658

F.

FEES for taking the acknowledgment of debts - - 83
of Pilots, to be determined by Governor and Council 101, 109, 777
for surveying lumber - - - 103, 105
of Clerks of the Pleas, when acting as Registers - 177
for examining flax-seed and pot-ashes - 210, 475
for inspecting butter, tobacco, &c. - - 256
of Assessors making assessments - - 276
of Fence-Viewers - - - - 286
of Collectors - - - - 311
for making a rule of submission to Referees - 333
upon recording a report of Referees, &c. - 333, 334
in the Secretary's office - - - 416
respecting lost goods and strays - - 450
when cattle are impounded - - - 456
taxed for the Attorney-General - - 488
for inspecting lime - - - 664
of officers, established - - 699, 850, 939
list of, to be hung up in the offices of Clerks of Courts 709
of County and Town Treasurers, &c. for sealing weights and measures - - - 899, 901
for inspecting nails - - - 906
for inspecting beef - - - - 911
for inspecting butter - - - 928
Felony, in what county indictable - - - 711
when the party charged stands mute, the Court to proceed to trial - - - - 711
Fences and buildings, on public landing-places, &c. nuisances 243, 374
regulation of - - - 283, 655
Viewers of, to be chosen annually - - 283
to be maintained in equal halves by occupiers - 284
partition, disputes about maintaining them, how to be settled 284
Viewers' duty, when they are insufficient - - 284
where lands bound on water, which is an insufficient fence 285
how to be assigned between occupants in common when one neglects to build his part - - 285
not to be taken away where one party lays his inclosure in common, in case - - - 286

Pages.

Fences water, how maintained - - - 286
upon houſe-lots, how regulated - - 286
Viewers of, neglecting their duty, penalty - 286
of common and general fields, regulated - - 287
charges of dividing them around common fields, apportioned 288
inſufficient round common and general fields, damages, how ſettled - - - 289
owners of unimproveable lands in common fields, when incloſed, not chargeable with - - 290, 291
being inſufficient in ſome parts, no bar to treſpaſs 458
around common and general fields, regulations of, &c. 665
Ferries regulated, &c. - - - 749, 789, 965
Field-Drivers and Hay-Wards of common and general fields, their duty, &c. - - - 289
their power and duty - - - 456
Fields, general and common, regulated - 287, 655, 739
Filing of accounts regulated - - - 207, 638
Finders of loſt goods and ſtrays, how to conduct - 449
Fines for perſons committing treſpaſſes - - 258
for deſtroying mile-ſtones, monuments, &c. - 258
(See Forfeiture.)
Fires, proceedings at, regulated - - - 779
Fire-Wards, their power and duty - - 779
Fire-Wood, bark and coal, Act to prevent fraud therein 763, 881
Fiſh, deceit in packing, prevented - - 974
Acts to prevent the deſtruction of - 1020, 1025, 1026
(See Beef.)
Fiſhing and fowling, free - - - 966
Flax-Seed, exportation of, regulated - - 208, 474
Forcible entry and detainer, proceſs of - - 190
Foreigners to be ſent to the houſe of correction, in caſe - 437
Forfeiture, in caſe of outlawry - - - 77
for printing, &c. the works of authors without their conſent 94
for refuſing to aſſiſt Collectors of Taxes - 96
when Collectors removing, refuſe to deliver up their rate-bills 99
for neglect and unſkilfulneſs of Pilots - 102
for delivering, or purchaſing, or ſhipping lumber, not ſurveyed - - - 106, 164
for frauds in ſurveying lumber - - 107
for Surveyors of Lumber neglecting to take the oath 107
for deſtroying white pine-trees on Commonwealth's land 108
for executors neglecting to prove wills - 113
for perſons diſturbing proprietors' meetings - 139
for Conſtables and Jurors neglecting their duty on inquiſitions - - - 150, 151
for Clerks of Courts not certifying fines - 153
for Sheriffs not paying money due on execution - 154
for refuſing to aid a Juſtice of the Peace, in caſe 160
for Juſtices not accounting for fines - 160, 534
for tenants in common, &c. committing waſte 161, 296

Pages.

Forfeiture for embezzling, &c. Maſſachuſetts Bank notes, &c. 162
for counterfeiting, &c. Maſſachuſetts Bank notes, &c. 163
for naval officers clearing veſſels with lumber, without a certificate of its being ſurveyed - - 165
for taking exceſſive uſury - - - 166
for Collectors not exhibiting their accounts once in two months - - - - - 179
for Conſtables neglecting to aſſemble town inhabitants for the choice of Grand Jurors, or to ſummon ſuch Jurors 185
for towns neglecting to chooſe Grand Jurors - 185
for Grand Jurors neglecting to ſerve - - 186
for Selectmen neglecting their duty in the choice of Petit Jurors - - - 187, 189
for Town Clerks and Conſtables neglecting their duty in the choice of Petit Jurors - - 189
for Petit Jurors neglecting to ſerve - - 189
for engaging in a duel, where death does not enſue 194
for witneſſes not appearing when ſummoned - 205
for ſhipping flax-ſeed, &c. not approved - 209, 475
for ſhifting caſks of flax-ſeed, &c. when approved 210, 212
for Aſſay-Maſters of flax-ſeed, &c. neglecting their duty 210
for marking pot-aſh caſks falſely - - 210
for exporting proviſions not approved - 211, 212
for conveying any inſtrument whereby a priſoner may break out - - - - 219
for gaolers ſuffering priſoners to eſcape - 219, 220
for not returning a liſt of priſoners - - 220
for concealing pregnancy, and being delivered in ſecret of a baſtard - - - 222
for ſelling unwholeſome proviſions - 224, 225
for perjury and ſubornation of perjury - 225, 226
for aſſaulting, with intent to rob - - 226
for crimes where benefit of clergy was heretofore allowed 227
for malicious burnings - - 228, 229
for aſſaulting, with intent to commit murder 230, 231
for theft - - - 231, 232, 233
for breaking up any dwelling-houſe in the day time, or entering ſuch houſe in the night time without breaking, &c. with felonious intent, &c. - 233
for aiding in ſuch offences - - - 234
for forgery, &c. - - - 235
for officers not delivering copies of commitments, or not ſerving writs of *Habeas Corpus* - - 239
for removing priſoners from one gaol to another without a writ of *Habeas Corpus* - - 239
for tranſporting any perſon out of the Commonwealth, &c. without his conſent, except by due courſe of law - - - 239, 240
for maſters of veſſels carrying minors, &c. beyond ſea, without the conſent of their parents, &c. - 240

Pages.

Forfeiture, for diſtillers, &c. exerciſing their employments in places not aſſigned - - - 242
for hawking and peddling - - - 243
for entertaining hawkers and pedlars - - 244
for frauds and cheats, and defrauding the Bank 250
annexed to any ſpecialty, &c. relief againſt in equity 251
for ſetting up lotteries without permiſſion - 252
for ſhipping tobacco or butter not approved - 255
for ſhifting caſks of tobacco or butter, or frauds in inſpecting them, or marking caſks, not being an Inſpector 255, 256
for ſelling and ſhipping onions and lime, contrary to law - - - - - 256, 257
for committing treſpaſſes, &c. in the night time 258
for deſtroying mile-ſtones, monuments, &c. - 258
for piloting a veſſel without a commiſſion - 260
for not ſerving as Aſſeſſor when appointed by the Seſſions 266
for Sheriffs making default in not accounting for monies, or not returning warrants of diſtreſs - 269
for Moderators of plantation meetings not notifying the officers choſen - - - - 271
for not ſerving as Conſtable or Collector - 272
for Aſſeſſors not appearing, or refuſing to be ſworn 275
for towns not chooſing Selectmen or Aſſeſſors - 276
for Aſſeſſors neglecting to obey the Treaſurer's warrants 277
for not ſerving as Fence-Viewer - - 283
for not repairing deficient fences - - 284
for Fence-Viewers neglecting their duty - 286
for proprietors of common and general fields neglecting to run lines - - - 289
for gaming in public houſes - - 295
for committing fornication - - - 298
for refuſing to aid Collectors of Taxes, in caſe 307, 308
for plantations not chooſing Collectors, &c. - 309
for refuſing to ſerve as Collector of pariſh or precinct taxes 310
for Selectmen neglecting to run town lines - 313
for town-officers not taking the oaths - 314
for Conſtables not returning town warrants - 314
for refuſing to ſerve as Conſtable - - 314
for perſons diſturbing town-meetings - 316
for deſtroying or defacing publiſhments - - 322
for unlawfully joining perſons in marriage - - 322
for marrying white and black perſons together - 323, 324
for neglecting to certify marriages - - 323, 324
for perſons not ſerving as pariſh officers when choſen 326
for breach of the articles for governing the militia 338, 345
for counterfeiting, forging money, &c. - 329, 330, 331
for not aſſiſting Sheriffs, &c. in diſperſing rioters - 346
for perſons continuing together after a riot - 347
for forging or counterfeiting lottery tickets - 351

Pages.

Forfeiture for Clerks, &c. of Courts neglecting to give bond, &c. 360
of Clerk's bonds, what ſhall be ſuch - - 360
for militia officers, &c. refuſing to march, &c. to ſuppreſs inſurrections - - - - 367
for ſelling ſpirituous liquors, or mixing them, &c. without licenſe - - - - 374, 377
for taverners refuſing to entertain perſons, &c. - 376
for playing at unlawful games at taverns, &c. - 377
for taverners keeping implements for gaming, ſuffering dancing, drunkenneſs, &c. in their houſes, &c. - 377
for ſecond breach of the law regulating licenſed houſes - - - - 377, 378
for taverners ſuffering poſted drunkards to drink, &c. 381
for perſons neglecting to work on highways, in caſe 390
for Surveyors of Highways neglecting their duty - 392
for not ſerving as Surveyor of Private ways - - 399
for ſelling beef, &c. not legally packed and ſurveyed 399
for debtors ſwearing falſely out of gaol - - 403
for being concerned in the ſlave trade - - 408
for Africans not departing from the Commonwealth after notice - - - - - 413
for maſters of houſes of correction not exhibiting his accounts to the Juſtices of the Peace annually - 413
for exporting green or unmanufactured calf-ſkins - 415
for ſuffering horſes to go at large - - 443
for not crying, recording, &c. loſt goods and ſtrays 451
for ſuffering ſwine to go at large - - 451
for towns not keeping pounds - - - 455
for reſcuing cattle, breaking pounds, &c. - 458
for towns neglecting to maintain ſchools - - 471
for foreigners, or perſons without certificates, keeping ſchools - - - - - 473
for killing fur-animals at certain times - - 509
for breaches of the pot and pearl-aſh laws - 512
for keeping miſchievous dogs, &c. - - 529
for Sheriffs and other officers neglecting to pay over fines, &c. - - - - - 533
for County-Treaſurers for neglecting to pay fines, &c. to the Commonwealth - - - - 534
for breaches of the Sabbath, &c. 536, 537, 538, 539, 782
for frauds by the Treaſurer's Clerks, &c. - - 542
for breaches of the ſmall-pox Act - - 566, 567
for manufacturing glaſs ware without licenſe - 576
for cutting out marks, &c. in timber, &c. - 610
of perſonal property, how to be recovered - 612, 614
for bringing poor and vicious perſons into towns - 629
for committing fraud in drafting Grand-Jurors - 631
for ſelling or ſhipping lime contrary to law, &c. 633, 634
for Selectmen and Sheriffs neglecting duty in the choice of Repreſentatives in Congreſs - - 652

Pages.

Forfeiture for Sheriffs neglecting to renew security according to order of Common Pleas - - - 663
for towns, &c. not setting up, and for marring guide-posts 670
for selling goods at vendue without license - 684
for taking more than lawful fees - - 710
for Selectmen or Town-Clerk neglecting their duty in the choice of Representatives - - 717
for Electors giving in more than one vote - 718
for Sheriffs neglecting to return votes for Representatives 718
for not assisting Sheriffs, &c. - - - 724
for pretending to be a Sheriff, &c. when not really so 724
for not giving notice of births and deaths - 725
for setting up a hackney-carriage without license, &c. 746, 747
for neglect of ferrymen, and acting as such without authority - - - - - 750
for towns neglecting to provide ferrymen - - 751
for carrying or offering fire-wood for sale unmeasured 763, 882
for refusing to watch - - - 773, 774
for riding with a naked scythe - - - 774
for carrying pageantry armed, or extorting money with it 774
for making bonfires in streets, &c. - - 775
for piloting vessels without a commission - - 776
for not serving as Fire-Wards, and not obeying them 779
for occupying sail-lofts or livery stables without the approbation of the Selectmen - - - 780
for setting fire to woods, &c. without leave - 781
for not giving notice to the Selectmen of persons arriving from infected places - - - 789
for returning without leave after being removed on account of sickness, or entertaining persons warned to depart - - - - - 789
for travelling without license from an infected place 790
for masters of vessels not anchoring near the hospital, when ordered, and other breaches of the law for preventing contagious sickness - - 792, 793, 795
for witnesses not attending to give their depositions 803
for keeping and for playing for gain at billiard tables 826
for Selectmen appointing elections on days of military duty 828
for officers exercising military command on election days 828
for profanely cursing or swearing - - - 829
for Town-Clerks not reading the Act against profane cursing and swearing - - - - 831
for injuring aqueducts - - - - 847
for Notaries Public, or their executors, &c. not lodging their records with the Clerks of the Common Pleas 848
for selling bread under weight - - - 850
for resisting the search of the Boston Board of Health 869
for having a nuisance in possession in Boston - 869
for disobeying the rules of the Board of Health in Boston - - 870, 871, 873, 874

Pages.

Forfeiture for offering for ſale, &c. tainted meat in Boſton - 870
for repacking ſalted proviſions in Boſton at certain ſeaſons, and for Packers not giving information thereof 870
for Packers of ſalted proviſions in Boſton not taking the oath required - - - - 870
for Pilots not making known the orders of the Board of Health and Selectmen to maſters of veſſels arriving in Boſton harbour, &c. - - 872, 897
for maſters of veſſels evading quarantine orders 872, 874
for keepers of lodging houſes or maſters of veſſels, in Boſton, not reporting the names of ſick perſons to the Board of Health - - - 872
for Pilots not aſſiſting to remove veſſels ordered to perform quarantine - - - 874
for weighing more than fifty pounds of beef or pork with ſteelyards - - - 883
for not obeying the orders of Selectmen to perform quarantine - - - 896
for County and Town-Treaſurers neglecting their duty as to weights and meaſures - - 899, 938
for perſons appointed Sealers of Weights and Meaſures not taking the qualifying oath - - 900
for Selectmen not executing the law for regulating weights and meaſures - - - 900
for traders, &c. neglecting to have their weights and meaſures ſealed - - - 901
for Sealers of Weights and Meaſures neglecting their duty 901
for ſelling articles by weights or meaſures not ſealed 901
for fraudulently ſtamping leather, boots, ſhoes, &c. 903
for exporting uninſpected nails - - 904
for Inſpectors unreaſonably delaying the inſpection of nails 905
for counterfeiting brands of nails, &c. - 905
for frauds in inſpecting beef - - - 911
for exporting beef contrary to law - - 912
for not aiding in ſeizing beef unlawfully ſhipped 912
for continuing a nuiſance after notice - - 921
for frauds in inſpection of butter - - 929
for towns not providing a public proteſtant teacher 931
for offering unmerchantable malt for ſale - 987
for purchaſing lands of Indians without licenſe - 999
for ſtopping up harbours by throwing over ballaſt, &c. 997
for cutting or barking pine trees - - - 997
for diſtilling rum with leaden heads, or making ſuch heads 1001
for making weares, &c. to obſtruct the paſſage of fiſh 1003
for building dams without paſſage-ways for fiſh, &c. 1020, 1029
for taking fiſh in ſtreams contrary to the orders of towns 1022
for receiving a reward for procuring an office for another 1039
for treaſon - - - - 1048, 1051

Forgery, and publiſhing any forged writings, &c. puniſhment, &c. 235, 250
certificates of certain officers, evidence in - 543

Pages.

Fornication, punishment of - - - 298
Frauds in conveying lands, &c. prevented - - 131, 972
in Massachusetts Bank, punishment of - 162, 163
misdemeanors and cheats, punishment of - 249, 250
and perjury, Act to prevent - - 427
Funeral expenses, taxes, &c. to be paid first out of insolvent estates 182
Fur Trade, Act for the encouragement of - - 509

G.

GAMING Act to prevent - - 293, 294, 825
Gaols to be under the care, &c. of Sheriffs, &c. - 153
to be erected in towns where Courts are holden - 218
state of, to be examined by the Courts of Sessions - 221
to be the houses of correction, until, &c. - 411
Gaolers, Sheriffs, to discharge debtors after 30 days, unless, &c. 206
to be answerable for, in case of escapes - 218
suffering escapes, penalty in that case - 219
prices of articles supplied by them to prisoners, how to be determined - - 222
not chargeable with prisoners convicted of theft on account of treble damages, after thirty days, unless 234
to apply to Justices in behalf of poor prisoners for debt 401, 505
to take custody of the prisoners of the United States - 487
their fees - - - - - 708, 774
General Issue pleadable in all penal prosecutions - - 426
Glass Manufactory, Act for the encouragement of - - 575
Goods lost, and strays, method to proceed, &c. - - 449
Governour and Council to appoint Pilots, and remove them, in case - - - 100, 103, 776
to send away aliens - - 181
his salary established - - 454
and Council to direct the sueing of the Treasurer's bond, when necessary - - 469
to appoint Inspectors of Pot and Pearl Ashes - 513
and Council to discontinue the Commonwealth's Treasurer, in case - - 541
to appoint Inspector of Nails - - - - 904
to appoint Inspector-General of Beef - - - 909
to appoint Inspector of Butter - - - 930
Grants and Donations to pious uses, &c. - 282, 1037
to towns, colleges, &c. confirmed by the Charter 969
how far they could be made by the General Court of the Province of Massachusetts-Bay - - 969
Guardians living out of the State, to give bond - - 85
mode of their obtaining license to sell the real estate of minors, &c. - - - 119, 121
to be appointed to minors and others, before division of real estate - - - 129, 130, 145, 1003
of idiots, &c. their duty - - 136
to be compensated for their trouble - - 136
to be appointed to drunkards, idlers, &c. - 137
mode of perpetuating the evidence of the sale of real estate by them - - - - 462
to be dismissed, in case, and others appointed - 489

Pages.

Guardians, Executors and Adminiſtrators, to put eſtate on intereſt, in caſe - - - 121
to make oath before the ſale of real eſtate - 131
not bound to plead ſpecially - - 137
liable to be ſued on their bonds - - 358
Guide-Poſts, &c. eſtabliſhment of - - 669

H.

HABEAS CORPUS Act - - - 236
Hackney Carriages regulated - - 713, 746, 782
Hancock County, terms of holding Courts altered - 815
incorporated and bounded - - 476, 500
Hampſhire County diſtricted for chooſing a Regiſter of Deeds - 383
Harbours, Act to prevent their being ſtopped up - 996
Harvard College, income from Weſt-Boſton Bridge appropriated to eſtabliſh two Tutors there - - 733, 809
incorporated - - - - - - 961
Preſident and Fellows of, empowered to make ſale of land 1037
Hawkers, Pedlars and Petty Chapmen, Act againſt - 243, 880
Health-Committees of towns, their power and duty 794, 875, 897
Heirs to refund ſhares taken for debts of the teſtator - 114
and deviſees, to pay their proportion of charge of diviſion 130
to aſſign dower in one month, &c. - - 142
may join or ſue ſeparately for their inheritances - 162
may ſue out, &c. a writ of review - - 445
and deviſees, to pay demands againſt the deceaſed - 461
recovering eſtates of the Commonwealth, to allow for improvements - - - 833
Hides, untanned, not to be ſtored in Boſton in certain ſeaſons 871, 876
Highways, how to be laid out 371, 756, 799, 965, 977, 1004, 1044, 1045
how to be repaired, &c. - - 386, 756
incumbrances, &c. acroſs them may be removed 388, 759
may be dug up to lay aqueducts - - 845
Hogreeves, appointment and duty of - - 451
Hogs'-Lard, inſpection of, provided for - - 941
Hoops, tale, &c. of them regulated - - 105, 164
Hopkins, Edward, the Truſtees of his charity enabled more effectually to execute their truſts - - 1023
Horſes and Mules going at large prevented - 443, 601
Houſe-breaking or entering, with intent to ſteal, puniſhment of 233
Houſes, licenſed, regulations of - - 374
of correction, &c. eſtabliſhment of, &c. - 411, 812
of ill fame, to be broken up - - 625

I.

IDIOTS, guardians to be appointed to them - - 135
&c. authority might be given by the Superior Court to ſell their lands - - - 981
Idle Perſons, guardians to be appointed to them - - 137
may be committed to the houſe of correction - 411
Illegitimate Children ſettled with mothers - - 607
Implication of Law, reſpecting real eſtate, valid - 132

INDEX.

Pages.

Impounding of ſwine, &c. regulated - - 451
of cattle, cauſes and proceſs of - - 455
Impriſonment, not to exceed thirty days, upon mean proceſs 206
unleſs lawful, puniſhed - - - 239
Incitement to commit perjury - - - 225
Indians, their title to lands - - - 965
Act for the better government of them - 979
Act to prevent abuſes to them - - 986, 998
Act to make void illegal purchaſes of land of them 988, 1030
Indictments in felony, when to be tried - - 241
not to be quaſhed for falſe grammar, &c. in caſes of treaſons, &c. unleſs - - - 1051
Indorſements of writs of *Audita Querela* - - 56
of all original writs by attornies - - 206
Indorſers of Writs liable to pay coſts, in caſe - 56, 207
new ones required, in caſe - - - 207
Infants cannot deviſe lands - - - 109, 961
Informers of forgery and other crimes, to be rewarded - 331
Inhabitancy, what ſhall gain a legal ſettlement 607, 988, 991, 1013, 1017, 1018
Innholders, &c. truſting townſmen above 10*s.* to loſe their debts 381
not to keep billiard-tables - - 825
Inqueſt of Office for the Commonwealth, to recover lands 516, 737, 833
Inquiſitions taken by Coroners, form of - - 65
Inſolvency of Eſtates deſtroys attachments - 174, 460, 639
proceedings againſt executors and adminiſtrators on their bonds, &c. in caſe - 358, 460, 439
Inſpectors of Tobacco, power and duty - - 253
of Pot and Pearl-Aſhes, power and duty - 511
of Lime, appointment, power and duty - - 663
of Nails, appointment and duty of - - 904
of Beef, appointment and duty of - - 909
of Butter to be appointed - - 930
—— to be Inſpectors of Hog's-Lard - 942
Inſtruments for forging money, penalty for making or keeping them 330
Inſurance on veſſels in the ſlave-trade, void - - - 408
Inſurrections, ſuppreſſion of, &c. - - - 366
Intereſt given on judgments in replevin - - - 481
to be allowed on judgments of Court - - 720
Interrogatories on oath, before Judge of Probate - 123
Inteſtate Eſtates. (*See Eſtates.*)
Iſſue, General, pleadable on Abſentees' claims, &c. - 214, 1073
accounts filed, to be given in evidence under - 207
pleadable to all informations, &c. on penal ſtatutes, and ſpecial matter to be given in evidence - 426
on the Dog Act - - - 529
pleadable by civil and military officers, and ſpecial matter to be given in evidence with a ſtatement, &c. 560

INDEX.

J.

JOINT-Tenants, waſte by, prevented - 161, 296
may be compelled to divide - - 161, 296
may join or ſue ſeparately for their inheritances - 162, 297
Joint-Tenancy, principle of ſurvivorſhip in, aboliſhed - 162, 297
what makes joint-tenancy, and how diſſolved, &c. 297
Judges of Probate to aſſign ſhares to poſthumous children - 111
to examine, &c. perſons complained of by executors,
to grant certificates for the ſale of real eſtate - 119, 121
&c. for embezzlement - - 123, 135
to examine, alſo perſons entruſted by executors with any
part of the eſtate - - 123
to examine after payment of debts, &c. to cauſe the
reſidue of eſtates to be divided among the heirs,
in whatever county it may lie - - 126
to examine, may direct inteſtates' eſtates to be firſt ſevered
from that of other perſons when they iſſue warrants for
dividing it among heirs - - 129
may order diviſion of teſtator's eſtates among deviſees 129
may direct teſtate eſtates to be ſo ſevered - 130
may iſſue their warrants againſt perſons refuſing to pay
their proportion of the charge of dividing real eſtate 130
may aſſign to one party more than his ſhare, he pay-
ing the overplus - - - 130
may order perſonal eſtate to be ſold - - 131
to appoint guardians to minors and others - 134, 135
to proceed againſt embezzlers of the property of *non-compos*
perſons - - - 135
to appoint guardians to children of lunatics, &c. 136
——————— to drunkards, idlers, &c. - 137
to have certain fixed days for publiſhing their orders, &c. 137
not to act as Attornies in cauſes relating to their judgments 137
their general power and duty - 155, 1000
where intereſted, Supreme Judicial Court to have
original juriſdiction - - 156
to ſtay further proceedings when an appeal is made 157
of Common Pleas, proviſion in caſes where they are intereſted 158
——————— ſpecial appointment and duty of - 158
their duty where eſtates are inſolvent - 182
to order wills proved without the Government to be
filed and recorded - - 246
to cauſe notice before the Probate of foreign wills - 246
to refer claims by and againſt executors and adminiſtrators 466, 467
to diſmiſs guardians, in caſe - - 489
their fees - - - - - 700
Judgments rendered by Supreme Judicial Court in *Audita Querela*
to be final - - - - - 59
to be affirmed where appeals are not proſecuted - 72
in outlawry, what ſhall be a reverſal of - - 78
in Probate Courts on appeal, &c. affirmation of - 157

INDEX.

Pages.

Judgments in favour of the Commonwealth, how to be satisfied 172
to be entered up against the estates of deceased persons where parties die, and executors, &c. neglect to prosecute or defend - - 174
to be given against bail, in case - - - 195
on abatements and demurrers, regulated - - 206
on mortgages to be conditional - - - 251
to be made on default - - - - 256
given *A. D.* 1775, declared void - - 269
how to be rendered in replevin 290, 363, 364, 480, 481
arrested or reversed, new actions may be brought in one year 354
interlocutory appeal from, regulated - - 356
how to be rendered on Probate bonds - - 357
where a man is replevied - - - 363, 364
not discharged by debtors swearing out of gaol - 403
creditors' process against the effects of their debtors 428
of Courts in process of replevy - - 480
how to be rendered against trustees - - 678
may be sued by action of debt - - 720
upon indictments for treason, may be reversed by writ of error 1051
of death not to be executed until certain proceedings had 1052
Jurisdiction of the Supreme Judicial Court - - 69
of the Court of Common Pleas - - 71, 149
of the Court of General Sessions of the Peace - 74
of the Supreme Judicial Court, original, where Judge of Probate is a party - - 156
of Suffolk and Middlesex, upon Charles River - 654
Jurors Grand, appointment and services of, regulated 184, 185, 631
neglecting to serve, penalty - - - - 185
to serve for one year at the Court of Sessions - 185
not excused from serving as Petit Jurors - - 631
their fees - - - - - - - 709
form of their oaths - - - - - 977
Jurors Petit, when to attend the Courts of Sessions and Com. Pleas 73
their choice and services - - 186, 187, 188
when deficient in numbers, new *Venires* to issue, and tales to be returned - - - - 188
neglecting to serve, penalty - - - 189
not standing indifferent in the trial, to be set aside - 189
to view in real actions - - - - 189
persons exempted from serving - - - 189
on a process of forcible entry and detainer - 190
upon a default, to inquire of damages, if moved for - 206
on indictments for high crimes, may find the parties guilty of part only - - - 234, 235
for the counties of Lincoln, Hancock and Washington, choice of regulated - - - - 514
not to be challenged peremptorily by the Government, in criminal cases - - - - - 1959

Pages.

Jurors Petit, list of, to be delivered to prisoners in cases of treason and misprision of treason - 1051
Justice, an Act to provide for the expenses of, in the several counties 734
Justices of the Peace to take recognizances of debts - - 79
dying, &c. how executions to issue on recognizances taken before them - - - - - 83
their fees in cases of recognizance - - - 83
to apprehend offenders from other States - - 86
may swear Appraisers, &c. - - 124, 169, 679
may appoint and swear Appraisers in certain cases, and administer oaths to guardians, &c. - 130, 131
to summon grantors to acknowledge their deeds, and take acknowledgments - - - 133
to certify the choice of guardians by minors, in case 135
to swear officers of proprietors, &c. - - 141
to swear Assigners of Dower - - 143
power in civil actions - - - 146, 796
in trespass before them, no title in evidence under the general issue - - - - - 147
when title to real estate is plead, proceedings in that case 147
may adjourn trials, in case - - - 147
not to counsel or advise parties - - - 147
to keep a record of their proceedings - - 148
dying, pending suits, process to complete their judgments 148
to issue execution against the proper estate of executors and administrators, in case - - - 148
to keep a record of all their proceedings - - 148
to grant subpœna for witnesses before all Courts and Referees - - - - - 148
parties may appeal from their judgment - - 148
to subpœna witnesses before all Courts and Referees 148, 160
their power and duty in criminal suits 159, 160, 232, 653
to account for fines at certain times - 160, 534
to settle the charges exceeding the profits of real estate set off by execution - - - - 170
Q. U. to issue warrants to choose Registers of Deeds 175, 515
to notify the Governor of aliens, and commit them, in case 180
Q. U. to issue process in forcible entries and detainers 190
to summon witnesses in causes triable before themselves 205
to issue warrants to seize flax-seed, tobacco and butter, when shipped, not duly marked - - 210, 255
to approve of the sureties of prisoners for the gaol-yard 221
to punish theft - - - - - 232
to assign places for noxious trades - - 241
to arrest, recognize or commit hawkers, &c. - 243
to have cognizance of certain trespasses - - 258
to swear Assessors, in case - - - 275
to call meetings of proprietors of common and general fields 287
their duty when complaints are made by women pregnant with bastard children - - - 300

Pages.

Justices of the Peace to issue warrants to distrain or commit for taxes, in case - - - - 308
may swear town officers - - - 314
to call town meetings, in case - - - 316
Q. U. to swear, &c. County-Treasurers, &c. - 319
authorized to marry persons - - - 321
Q. U. to determine objections to marriages - 322
to keep a record and return certificates of marriages 323
to call parish and precinct meetings, in case - 327
to make agreements of submission to Referees - 333
to disperse or seize rioters - - - 346
Q. U. may grant license to sell spirituous liquors, in case 380
to determine cases under £. 4 on the license law - 382
to issue processes on complaints for not working on highways 390
to receive complaints from poor prisoners, debtors in gaol 401
Q. U. to swear poor debtors to be discharged from gaol 402, 505
to send rogues, &c. to the house of correction 411, 413
to issue warrants to seize green or unmanufactured calf-skins, &c. in case - - - 416
whose commissions have expired, their doings confirmed 429
to issue a warrant to appraise lost goods or stray beasts 450
duty as to swine going at large - - - 452
duty as to impounding cattle, in case - - 457
in actions of replevin above 80*s.* &c. to recognize the parties to the Common Pleas or Supreme J. Court - 480
Q. to swear out of gaol prisoners for taxes - 505
jurisdiction on the pot-ash law - - - 512
to give a certificate of the oath respecting mischievous dogs 528
not to summon witnesses in certain criminal cases, unless on condition of being paid - - - 535
power and duty on breaches of the Sabbath - 539
in General Sessions to make estimates at any time for county charges - - - - 556
to have jurisdiction of libels to recover forfeitures - 613
may apprehend apprentices eloping - 621, 672
to have cognizance of assaults, batteries, menaces, &c. 653
power, &c. respecting servants, apprentices, &c. - 672
their fees - - - - - 699
to cause offenders to be apprehended for breaches of the peace, &c. in the absence of the Sheriffs - 724
to order a military watch in certain cases - 772
their duty, &c. in case of contagious sickness - 790
to take depositions - - - - 801
Q. U. to commit lunatics to the house of correction 813
to take cognizance of profane swearing - - 829
form of conviction before them for profane swearing 830
to issue process against persons possessing nuisances in Boston 869
to issue warrants to seize beef shipped without inspection 912
to issue warrants to seize butter and hogs'-lard shipped without inspection - - - 942

Pages.

K.

KALENDAR of Priſoners to be kept by Gaolers - 226
to be returned to the Courts - - 220
Kennebeck County eſtabliſhed - - - 838, 878

L.

LANDING Places, buildings thereon without licenſe, to be eſteemed nuiſances - - - 243
Lands deviſable by will - - - 109, 961
tenements or hereditaments, how they ſhall deſcend 124
leaſes, &c. of, not put in writing, &c. to have the effect of leaſes at will only - - - 132
agreements for the ſale of, to be in writing, &c. - 132
liable for the payment of debts - - 169
between the Hudſon and Miſſiſippi, to be ceded to the United States - - - - 215, 241
unimproved and of non-reſidents, mode of ſelling for non-payment of taxes - - - 306, 307
eaſtern, Acts for ſelling by lottery - 348, 428
free from fines, &c. - - - 966
may be granted by towns - - - 966
of diſtracted perſons, might be ſold by licenſe of the Superior Court - 981, 982, 994, 998, 1011, 1045
(See Eſtates Real. See Frauds and Perjury.)
Larcenies, puniſhment of - - - - 231
at fires - - - - 780
Leaſes Parol, &c. to have the effect of eſtates at will only 132
of freehold, or for term of years, how to be aſſigned, &c. 132
Leather, &c. manufacture of, encouraged - - 903
Legacies given to witneſſes to wills, void - - 113
recoverable at common law - - - 114
no limitation againſt ſueing - - - 461
Legatees and Deviſees to refund to poſthumous children - 111
heirs, &c. to make contribution when portions are taken by execution - - - - 114
Lewdneſs, puniſhment of - - - - 218
Libels, a remedy by, to recover all forfeitures, &c. - 612
Liberties common - - - - 966
Liberty, perſons deprived of, mode of redreſs - - 237
perſonal when violated, mode of redreſs - 239
Libraries ſocial, proprietors enabled to manage them - 819
Licenſed houſes, regulation of - - - 374
perſons to recognize - - - 378
perſons removing, &c. may have their licenſes granted for other houſes, &c. - - - 380
penalty for keeping billiard tables - - 825
Licenſes to be renewed yearly - - - 375
not to be granted to perſons indicted, until, &c. - 376
time of granting them, &c. - - - 379
to perſons not living within any incorporated town 556
to be granted to vendue maſters - - 684

Pages.

Light-Houſes, proviſion for the ſupport and maintenance of 108, 197
granted to the United States with juriſdiction 494, 609, 687, 743, 770, 847
Lime and Lime-Caſks, regulations reſpecting 257, 633, 663, 740
Limitation of proſecuting bail in civil cauſes - - 196
of accounts againſt the Commonwealth - - 215
of real actions - - - - 328
of perſonal actions - - 353, 499, 573, 637
for ſueing the recognizances of licenſed perſons - 379
of petitions for reviews - - - 424
of actions on penal ſtatutes - - - 425
of actions againſt executors and adminiſtrators 459, 460, 526, 558
of demands of creditors whoſe executions have been levied by miſtake - - - - 501
of actions againſt proprietors of common lands - 505
of actions on the fur-trade law - - - 509
of reviews, appeals and complaints - - 519
of actions on the pauper Act - - - 623
of actions, proviſion in caſe of perſons dying - 637
of actions againſt Sheriffs for the miſconduct, &c. of Deputies 770
of petitions for wages drawn by forged orders - 831
of proſecutions for profane ſwearing - - 831
of indictments for treaſon - - - 1051
Lincoln county, divided and bounded - - 476, 500, 878
Lines diviſional in private property, town lines, &c. - 286
Literary Productions ſecured to authors - - - 94
Loan of the Commonwealth's debt 603, 682, 718, 751, 817
Lord's-Day, due obſervation of provided for, &c. - 536, 782
Loſt Goods and Strays, mode of proceeding with - - 449
Lotteries, ſuppreſſion of - - - - 252
eſtabliſhed for redeeming public ſecurities by a ſale of lands 348, 428
Lumber, boards, ſtaves, ſhingles, &c. regulated - 103, 164
Lunatics to be committed to the houſe of correction - 813

M.

MALT, the making and meaſuring of, regulated - 987
Manſlaughter, puniſhment of - - - 223
Marine Society of Boſton to certify the abilities of Pilots - 776
Marriages inceſtuous, prohibited - - - 301
within the age of conſent, void - - - 218
a former wife or huſband living, void - - 301
ſolemnization of - - - 321, 684
intentions of, how to be publiſhed - - 321
of perſons under twenty-one and eighteen, not allowed but by conſent of guardians, &c. - - - 321
between white and black perſons, prohibited - 324
of Quakers, regulations reſpecting - - 324
fees for them - - - - 708
Married Women to ſell land, ſue, &c. in caſe - - 404
Marſhpee, Indian, Mulatto and Negro proprietors, regulated 418, 440, 491
Act to preſerve the growth of wood there - 712

Pages.

Marshpee, provision for removing poor persons from the district of 742
Massachusetts Fire-Insurance Company incorporated - 688, 835
Massachusetts Society for the Aid of Emigrants incorporated 691
Masters of Houses of Correction, their power, duty, &c. 411, 412, 435
Masters of Work-Houses, their allowance, duty, &c. - 435, 437
Masters of Lodging-Houses in Boston, to report the names of sick persons to the Board of Health - - - 872
Masters of Vessels to make oath that lumber shipped was surveyed 106
not to carry minors, apprentices, &c. beyond sea without the consent of their parents, &c. - - 240
to make report of their passengers to the Overseers of the Poor 629
subject to quarantine orders - 871, 872, 874, 896
to produce certificates of beef being inspected before clearing out - - - 911
to produce certificates of butter being inspected before clearing out - - - 929
to keep merchantable and unmerchantable malt separate, on penalty - - 987
not to throw over ballast in harbours - - 996
Measurers of Cord-Wood, &c. their power and duty - 763
Meetings of proprietors of common and general fields 288, 655
Memorandums of certain contracts to be made in writing, &c. 427
Merrimack-Bank incorporated - - - 692, 697
Militia, when called into service, or in forts, government of 337
to be called out to suppress insurrections - - 366
Acts for regulating and governing 579, 715, 914, 943
Mills, Acts for the support and regulation of 729, 814, 922, 1005
Mill-Dams not to be built without passage-ways for fish, on penalty - - - - 1020, 1029
Ministers to marry persons - - - 321, 322
to keep a record of marriages, and to certify them 323
to certify marriages - - - 323, 684
and houses of public worship, to be supported by parishes 327
to certify respecting School-Masters, and superintend schools - - - 471, 472
settled as inhabitants where ordained - 607
their contracts with towns, &c. to be binding - 931
Minors, mode of obtaining license to sell their real estate - 119
of fourteen years to choose their guardians 134, 961
and apprentices rescuing cattle, who is answerable - 459
mode of binding them out, &c. - - - 671
parents or masters liable for their misconduct, unless 781
Mistake in levying executors on wrong lands, remedy in that case 244
Misprision of Treason, what, and its punishment - 1047, 1052
Moderators of proprietors' meetings, their power, &c. - 139
may administer oaths to the officers of proprietors, &c. 141
of plantation meetings, their power and duty - 271
of town meetings, their power and duty - 316, 317
Money brought into Court when disclaimer is pleaded - 354
of Account, to be in dollars, cents and mills - 657

Pages.

Mortgaged Eſtates, equity of redemption in, &c. 447, 448, 853, 855, 1069
Mortgages, how to be diſcharged - - 134, 984
on Abſentees' eſtates, equity of redemption therein 214
equity reſpecting three years poſſeſſion, &c. 251, 853, 985, 995
&c. given for gaming, to be void - - 293
&c. may be ſold and diſcharged by executors and adminiſtrators - - - - 446, 447
where mortgagee dies, proviſion in that caſe - 446
Mortmain, grants in, regulated - - 282
Mothers to inherit childrens' portions, in caſe - - 125
Mulatto and Negro Slaves not to be manumitted, until - 990
Mules, Aſſes and Horſes prevented from going at large - 601
Murder, when women are charged with, they may be found guilty of leſs offences - - - - 223
puniſhment of - - - 223, 236
Mute perſons ſtanding, how to be proceeded with 711, 1050

N.

NAILS, manufacture of, regulated - - 904
Nantucket County, appeals from - - - 93
Naturalization of proſcribed perſons permitted - 546
Naval Officers to hang up a ſchedule of the Pilot's fees - 101
not to clear any veſſel with lumber, &c. without a certificate of its being ſurveyed - 165, 212, 256
to be removed, if convicted of neglecting the law regulating lumber - - - 165
to receive Light money - - 197
and Notaries Public, additional ones eſtabliſhed - 394
Naval Stores, Act for preſerving them - - 997
Negroes and Foreigners to be ſent out of the State - 413
Negroes and Mulatto Slaves not to be manumitted, until, &c. and to be at the charge of their maſters - 991
Non-Reſidents, notice of the ſale of their lands, how to be given and proved - - - 681, 682
their lands to be taxed for making and repairing highways 759
Norfolk County eſtabliſhed - - 569, 577
Notaries Public, proviſion for the ſafe keeping of their records 848
Notes of Hand, witneſſed, not limited, if ſued by the original promiſſee - - - 355, 637
Notice to be given by Courts to all parties previous to the paſſing upon repreſentations for the ſale of real eſtates 120
to be given to all perſons intereſted in the partition of real eſtate previous to an order iſſuing - 129, 145
to be given by dividers of real eſtate amongſt deviſees, to all parties - - - 129
to be given to idlers, &c. previous to a complaint to Judge of Probate - - - 137
to be given in caſe of filing and recording wills proved out of the State - - - 246
to be given in caſe of proving wills by affidavit - 247

Pages.

Notice to be given to proprietors of common fields, before partition, by the Seſſions - - - 291
to be given the adverſe party, to libels for divorce 303
to ſwear out of gaol, how and when made - 401
to be given, of the application of a married woman to ſell eſtate 405
of ſale of land by Sheriffs, Collectors, &c. to be given to the attorney of non-reſident proprietors - - 681
of ſale of land by Sheriffs, &c. how proved - 682
to be given, of the ſale of lands for highway taxes 757
of taking a depoſition - - - - 801
to one of joint obligors ſufficient, in caſe - - 810
Notifications of the ſale of real eſtate, by executors, &c. 118, 461
of the meetings of proprietors of common lands - 138
of the ſale of their lands for non-payment of taxes 140
before the ſale of property taken by diſtreſs - 172
to be made by Commiſſioners on inſolvent eſtates - 182
of the appointment of executors and adminiſtrators 459
of the ſale of equity of redemption, in mortgaged eſtates 854
to be poſted up by Sealers of Weights and Meaſures 900
Nuiſances, Common, prevention of - 241, 374, 921, 992, 1003
in highways and common places, what - 374
in highways, proceſs for removing - - 388
in the town of Boſton, to be examined into, &c. 868, 871

O.

OATH of Pilots - - - 100, 777
to all appraiſers, &c. appointed by Judge of Probate, may be before Juſtices of the Peace, or Town-Clerk 124
of executors and others previous to the ſale of real eſtate 131
to be adminiſtered to Treaſurer, &c. of common lands 141
to be adminiſtered to Aſſigners of Dower - 143
to be adminiſtered to dividers of real eſtate - 145
required of Coroners - - 150
of Jurors and witneſſes, on a Coroner's inqueſt - 151
of debtors and creditors, on queſtions of uſury - 167
to be taken by appraiſers of real eſtate ſet off by execution 169
required of Regiſters of Deeds - - 175
of Grand Jurors, form of - - 184
of Jurors, in proceſs of forcible entry and detainer 191
required of Surveyors of Flax-Seed, &c. - 208, 474
may be taken, to obtain a writ of *Habeas Corpus* - 237
of attornies, on admiſſion - - 252
required of Inſpectors of Tobacco, &c. - 253
of officers in unincorporated plantations - 271
of Aſſeſſors - - - 278
of perſons taxed, taken or doomed, in caſe - 280
to be adminiſtered to Aſſeſſors, &c. of proprietors of common and general fields - - 288
mode of trial, on a queſtion of gaming - 294
to the huſband, to diſcloſe his wife's perſonal eſtate 392

Pages.

Oath of Conſtables and Collectors, form of - 311
in Courts-Martial, form of - - 342, 343
of Committee for laying out highways - 373
to be taken by taverners and retailers, form of - 375
of debtors ſwearing out of gaol - - 402, 506
before Commiſſioners on inſolvent eſtates, form of 490
allowed to be taken by priſoners for taxes - 505
admitted againſt miſchievous dogs - - 528
of Tythingmen - - - 538
of Inſpectors of Lime - - - 663
of Maſters of Veſſels, reſpecting certificates of beef 912
——————— reſpecting certificates of butter 929
forms of them eſtabliſhed, in ſeveral caſes - 977
form of, for a party accuſed of ſelling ſtrong liquor to Indians 981
of Aſſay-Maſters to inſpect diſtil-houſes - 1002
of creditors to the eſtates of Conſpirators and Abſentees 1063
Officers to bring the complainant on writ of *Habeas Corpus* 238
not delivering copies of commitments when demanded, penalty - - - 239, 308
not ſerving writ of *Habeas Corpus*, penalty - 239
allowed to plead the general iſſue in all caſes - 560
to give an account of fees in writing if required 710
Onions, exportation and ſale of, regulated - - 256, 257
Outlawry, proceſs of, regulated - - - - 76
——————— to be had againſt abſconding Collectors of Taxes 273
in caſes of treaſon, regulated - - 1048
Overſeers of the Poor, to diſcharge perſons from houſes of correction 413
choice, power and duty of - - 619, 620
Overſeers of Workhouſes, to make rules and regulations, and to be annually appointed - 434, 435, 812
to commit perſons - - 435
Oyſters, Acts to prevent the deſtruction of them 726, 824, 879

P.

PARISHES and Precincts have power, as towns, for taxation, &c. 282
their bounds eſtabliſhed - - - 325
meetings regulated - - - 326
may grant money for the ſupport of Miniſters, &c. 327
declared to be bodies corporate - - 327
when divided, their ſeparate rights aſcertained - 327
Parties to ſuits dying, proviſion in that caſe - - 12
to be admitted to plead their own cauſe, &c. - 25
Partition of the eſtate of deceaſed perſons by order of the Judge of Probate - - - 126, 129
when unequal among the parties, overplus to be paid for 130
of lands and other real eſtate, mode of 144, 1003, 1040
——————— where to be recorded - 145
——————— to be made anew, in caſe - - 146
of tenances in common, &c. mode of - 161, 296
of common and general fields, mode of - 291

Pages.

Partition of real eſtate, the facts to be determined by a Jury 355, 356
Penal Statutes, limitation of actions upon them - 425
actions or ſuits on them to be brought in the county where the offence is committed - - 426
Penalty (*See Forfeiture.*)
Perjury and ſubornation of Perjury, puniſhed 225, 490, 507, 805
may be incurred by falſe anſwers before Commiſſioners 490
committed by poor priſoners for taxes, to be puniſhed 507
may be committed by Truſtees in their anſwers - 679
Petitions for the ſale of Real Eſtate, regulations reſpecting them 121
for partition of common lands, &c. - - 296
for reviews, in caſe, &c. - - 425, 519
Pews to be conſidered as real eſtate - - 714
&c. in the town of Boſton, to be deemed perſonal eſtate 833
Pilots, appointment and duty of 100, 109, 168, 259, 776, 778, 787
liable to be removed by the Governour and Council 103
to give bond - - - 777
to give notice of the orders of the Board of Health and Selectmen to maſters of veſſels arriving in Boſton harbour - - 870, 871, 897
Pine-Trees, Act to prevent the deſtruction of - 109
Plantations, mode of aſſeſſing and collecting taxes therein 270, 894
veſted with the powers of towns as to the choice of Aſſeſſors, &c. - - 281, 309, 894
to raiſe money for the ſupport of ſchools - 472
under the ſame obligations as towns to lay out and repair highways - - - 755
Pleas to an action of *Audita Querela*, regulated - 58
of abatements and demurrers to be filed before the Jury is impanelled - - - 73
ſpecial, not required of executors, adminiſtrators, nor guardians - - - 137
when before a Juſtice and affecting title to real eſtate, proceedings in that caſe - - 147
before Juſtices of the Peace, in civil cauſes, regulated 149
agreements reſpecting, when entered upon record, binding 206
accounts filed to be given in evidence under the general iſſue 207
general iſſue, any ſpecial matter in evidence, in caſes on penal ſtatutes - - - 426
of diſclaimer, regulated - - 354
to a petition for partition - - - 355
general iſſue allowed on the dog Act - - 529
——— allowed where the defendant juſtifies as a civil or military officer - - - 560
when parties ſtand mute in capital caſes of felony, the Court to proceed as though they plead not guilty - 711
Polygamy, puniſhment of - - - - 217
Poor Vagrants, *Idlers*, to be ſent to the work-houſe - - 435
Poor, by what towns to be relieved - - - 606
Act providing for the ſupport, employment, &c. of 619

Pages.

Poor, accounts exhibited for their ſupport, how to be evidenced 849
Pork. (*See Beef.*)
Poſſeſſion of Lands for twenty years, bars an entry - - 328
Poſthumous Children to have a right in the eſtate of their fathers 111, 985
Pot and Pearl Aſhes, exportation of, &c. regulated 209, 510, 571
Pound, breaches of, &c. puniſhed, &c. - - 455
keepers not liable to actions, unleſs - - 457
Precincts and Pariſhes to chooſe Aſſeſſors and Collectors of taxes in March, annually - - - 282, 310
Preſcriptions to lands, muſt be ſixty years to give title - 328
forty and ſixty years to limits of high-ways - 374
Primogeniture, right to a double portion, aboliſhed - 464
Priſoners, not to be held on mean proceſs more than thirty days after judgment - - - - 206
aiding them in eſcaping from priſons, puniſhment 219
to be regiſtered by Sheriffs - - - 220
for debt to be kept from criminals - - 221
not to be removed from one gaol to another without a writ of *Habeas Corpus* - - - - 339
committed for capital crimes, and not indicted at the ſecond term, &c. to be bailed or diſcharged - 240, 241
for debt, Act for the relief of - 401, 466
of the United States to be kept in the ſeveral gaols 487
poor and committed for taxes, Act for the relief of 505
Priſons, Act for the providing and regulating of - 218
breaches of, &c. puniſhed - - - 219
Probate Matters, appeals from all decrees therein to the Supreme Judicial Court - - - - - 156
appeals therein from Nantucket and Dukes'-County, when and where to be heard - - - 514
Regiſters of their fees - - - 702
Proceſs, judicial to be in dollars, cents and mills - 657
Law revived, for certain purpoſes - - 857
Proclamations form of to be made to rioters - - 346
Profane Curſing and Swearing, Act to prevent it - 829
Promiſes for marriages to pay others debts, &c. void unleſs in writing, &c. 427
Proof of contracts for land, &c. mode of, &c. - - 132
Proprietors of common Lands to call meetings 138, 504, 995, 1035
their power - - 138, 140, 141, 1019, 1035
their votes to be numbered according to their intereſt 139, 504
to ſue and be ſued - - - 139, 504
writs againſt them to be ſerved at leaſt thirty days before the Court - - - - 141
their Treaſurer and other officers to be ſworn 141, 1019
their records, where to be lodged - - 142
of common and general fields, may meet annually to make rules, &c. - - - - 287
powers to raiſe monies, &c. 288, 289, 1015, 1019
to remain a proprietary for certain purpoſes after diviſion 504
ſuits to be brought againſt them within ſix years 505

Pages.

Proprietors of common and general Fields to run lines, on penalty 289
to vote according to intereſt - 290
manner of their proceeding to make partition - 291
Proprietors of Lands to pay their proportion of charge for removing obſtructions, &c. - - - 721
Proprietors of Social Libraries, enabled to manage them - 819
Proprietors of Aqueducts, enabled to manage them - 843
Proprietors of Wharves, and other real eſtate beſides lands, their meetings, how to be called - 1011
Provers of Butter, their power and duty - - 254
Province of Maſſachuſetts-Bay incorporated - - 967
Proviſions, exportation of, regulated - - 211
unwholeſome, ſale of puniſhed - 224, 225
ſalted, not to be repacked in Boſton without permiſſion, in certain ſeaſons - - - 870
Public worſhip of God, provided for - - 931
Publiſhment, certificates of, for marriage, regulated - 321
Puniſhment by hard labour, how to be carried into execution 235
for committing treſpaſſes in the night time - 258

Q.

QUAKERS exempted from taxes for the ſupport of public worſhip - - - - 797, 932
not to vote in miniſterial affairs - - 798
allowed to affirm - - - - 804
Quarantine may be ordered to be performed by veſſels arriving in Boſton harbour - - - 871, 896
Quitam Actions, for ſhipping lumber contrary to law - 106
coſts in, regulated - - - 206
for exporting proviſion contrary to law - - 213
action for carrying minors, &c. out of the Commonwealth without conſent of their parents - 239, 240
againſt perſons exerciſing noxious trades, &c. - 242
againſt entertaining hawkers, pedlars, &c. - 244
againſt perſons concerned in unlawful lotteries - 253
againſt perſons concerned in gaming - - 294
againſt Surveyors of Highways, in caſe - - 392
againſt perſons concerned in the ſlave-trade - 408
limitation of - - - - 425
and informations muſt allege the offence to be committed in the true county - - - 426
for horſes going at large, contrary to law - 443, 601
againſt Town Clerk or Regiſter, for neglecting their duty reſpecting loſt goods and ſtray beaſts - - 450
for breaches of the pot and pearl-aſh laws - 512
againſt officers for not paying over fines, &c. - 533
for uſing the lumber of others, cutting marks out of logs, &c. 610
for deſtroying guide-poſts, &c. - - 670

(See Forfeiture.)

Page.

R.

RAINSFORD's-Island, regulations there, when veſſels are performing quarantine - - - 873
Rape, puniſhment of - - - - 235
Rates to be proportioned by the laſt Tax Act - 279
perſons overrated, their remedy - 280
(See Taxes.)
Recognizances in the Supreme Judicial Court and General Seſſions, regulated - - - - - - 74
for the uſe of the Government, bind the lands of the recognizors - - - - 78
Juſtices of the Peace empowered to take them for the payment of debts - - - - - 79
form of them, and proceſs, how to be directed and executed - - - - - 80
execution upon, how to be iſſued in caſe of the death of the Juſtice - - - - - 83
to be kept by Juſtices of the Peace, in all caſes - 148
on appeals from Juſtices, not to exceed £.10 - 149
in the ſeſſions, or before Juſtices, when forfeited to be ſued in the Courts of Common Pleas - - 160
in proſecutions of theft, to be taken to the Commonwealth and injured party - - - - 232
to be given where a man is replevied - - 363
for taverners and retailers, and proceedings thereon if forfeited - - - - 378, 379
for licenſed perſons to pay exciſe duties - 379
effect of them in replevin - - - 480
Records of proprietors of common lands, where to be lodged 142
of Courts and of deeds, proviſion for ſafe keeping 359
Redemption of real eſtate taken by execution, in one year 170
of eſtate ſold on diſtreſs, warrants - - 173
of lands ſold to pay taxes in two years - - 307
of real eſtate mortgaged, &c. and taken poſſeſſion of by executors or adminiſtrators - - 447
References before Juſtices, eſtabliſhment of, and regulated - 333
determinations in, may be made known to parties prior, &c. 334
power of Referees in - - - 334
References of claims againſt inſolvent eſtates before Judges of Probate 183
and reports thereon, coſts in ſuch caſes, regulated 354
of demands by and againſt executors, &c. to be made before Judges of Probate - - - 466
reports, &c. not to be appealed from, &c. - 530
Regiſters of Probate, their appointment and duty - - 156
and deeds, to give bonds to keep correct records 359, 360
their fees - - - - 701
Regiſters of Deeds, manner of chooſing, &c. - - 175
their duty, &c. - - - - 175
proviſion in caſe of their death - - 175, 176
to be choſen every five years - - - 177

Page.

Regiſters of Deeds liable to be diſplaced, in caſe - 361
appointment of in the county of Hampſhire - 383
appointment of in the county of Berkſhire - 421
their duty reſpecting loſts goods and ſtrays - 450
to account for exciſe duties with the County Treaſurer 735
appointment of by the inhabitants of a part of the county of York - - - - 876
appointment of for the lands within the *Hopkins'* truſt 1024
Replevin, judgment in, where proprietors of common fields are parties 290
De Homine Replegiando, proceſs of, regulated - 361
proceſs of regulated, &c. - - - 479
judgment in generally, how to be rendered 480, 481
Reports of Referees, when and how to be made, &c. - 334
Repreſentatives Federal, manner of chooſing - - 648
Reſcue and Pound Breach, puniſhment for - - 458
Reſiduary Legatees may give bond to pay debts and legacies 114
Retailers not to allow gaming on Sundays in houſes - 537
Review, not allowed in judgments on proceſs of *Audita Querela* 59
in civil actions, regulated - - 369, 370, 520
of cauſes after judgment - - - 423
of judgments on Probate bonds, regulated - 430
grantable after the death of the parties - - 444
in caſes where by accident, &c. complaints may not be entered - - - - 519
Riots, routs, and tumultuous aſſemblies, Act to prevent 346
Robbery, puniſhment of - - - - 226
Rogues, vagabonds, common beggars and idlers, puniſhed 411, 812
how to be diſcharged from the houſe of correction 413
Rules and orders of the Supreme Judicial Court legal - 70
of the Court of Common Pleas not repugnant, &c. legal 72
Rum, &c. diſtillery of, regulated - - - 1001

S.

SABBATH, Acts for duly obſerving, &c. - 536, 782
Salary of the Governor eſtabliſhed - - 454
of the Juſtices of the Supreme Judicial Court ſtated 487
of the Attorney-General - - 488
Sale of land by executors and adminiſtrators - 118, 119, 1000
of property for payment of taxes, regulated - 304, 525
of goods, above £.10 void, unleſs - - 427
of land by executors and adminiſtrators, evidence perpetuated 461
of goods at public vendue, regulated - - 684
Salmon, Shad and Alewives, obſtructions to their paſſage by dams, regulated - - - 1020, 1025, 1026
Scavengers may be appointed in Boſton by the Board of Health 874
Schools and School-Maſters, proviſion for - - 469, 470
School-Maſters, their qualifications - - 471
School-Houſes, how to be built and repaired - - 906
Sealers of Weights and Meaſures, their duty - 900, 901
Seamen and Soldiers may diſpoſe of their property by nuncupative wills 110
Searchers and Packers, their duty - - 211

Pages.

Secretary, his duty, in case of the vacancy of the Treasurer's office 541
fees in his office - - - 709
Seizin of executors and administrators, in lands mortgaged or in execution - - - 446
Seizure of personal property forfeited, lawful - - 612
Securities of every kind for gaming, consideration void - 293
Seguin, jurisdiction of, granted to the United States 609, 770
Selectmen to give certificates of bounties paid for killing wolves 89
to call town, precinct or parish meetings where Collectors of Taxes remove - - 99
to make inquisition concerning idiots and others - 135
to make complaint of drunkards, &c. to be put under guardianship - - - 137
to cause Petit Jurors to be chosen - - 187
to appoint Searchers of Beef, &c. - - 210
to inspect and seize onions, in case - - 257
to assign places for noxious trades, &c. - 241
to appoint Engine-Men - - - 262
to summon town-meetings to choose Assessors in the room of such as refuse serving - - 276
are Assessors, *ex officio*, in case - - 276
to run town lines every five years - - 313
to warn town-meetings - - 313, 716
to be Overseers of the Poor, in case - - 313
power, &c. to lay out particular and private ways - 371
to certify taverners and retailers to Clerks of the General Sessions - - - 375, 376
to post up drunkards, gamesters, &c. - 380
to forbid taverners selling liquors to drunkards - 380
to cause Tythingmen to be chosen - - 381
their power and duty respecting the repair of highways 387
to provide materials for persons in houses of correction 412
their duty respecting schools - - 472, 473
power and duty respecting small-pox - 565, 566
their duty in the choice of Representatives in Congress 650
power and duty respecting guide-posts - 669
their duty, &c. in binding out apprentices and servants 671
to license Vendue-Masters - - 684
of Boston, to license hackney carriages - - 713, 746
their duty in the choice of Representatives - 716, 718
to appoint Measurers of Wood, &c. - - 763
to appoint persons to seize unlawful charcoal baskets 764
to order suitable Watches, in case - - 772
to approbate places for sail-lofts and livery stables 780
to remove sick or infected persons - - 788
not to appoint elections on days of military duty 828
may allow highways to be dug up to lay aqueducts 845
or Overseers, to certify as to the settlement of poor persons 849
to cause vessels to perform quarantine, in certain cases 874
to appoint Sealers of Weights and Measures - 900
to grant warrants to call school district meetings - 908
to appoint Viewers and Sealers of the moulds for bricks 994
may fix the times for keeping open sluice-ways for the passage of fish - - 1025

Pages.

Senators, &c. Commonwealth diſtricted for the choice of - 615
Sentences againſt criminals conditional, in caſe - - 448
Servants, &c. bound out by Overſeers of the Poor, in caſe 620
and apprentices, mode of binding out - 671
Service of a writ of *Audita Querela* - - 55
of a writ before Courts of Common Pleas, fourteen days 72
of a proceſs of outlawry - - - 76
of a writ on towns and corporations, thirty days - 141
of a writ before Juſtices, under £4, ſeven days before Court 147
of writs of review on judgments upon probate bonds 359
of a writ of review, in certain caſes - - 371
of a notification to ſwear out of gaol - - 401
of replevin proceſs - - - 482
of writs, not good on Sundays - - 538
of libels to recover property forfeited - - 613
of a Truſtee proceſs, mode of - - 674
of notice to the adverſe party of taking a depoſition 661
of writs, where defendants are out of the State, &c. 808, 809
on one of joint obligors, good, in caſe - 810
Settlement of lands among heirs and deviſees - - 130
of perſons in towns, &c. how gained - 606
Sewers, Commiſſioners of, appointed - - 721
Sheep and He-Goats, their going at large, regulated - 761, 878
Sheriffs to aid the removal of other State criminals - 86
and other officers of neighbouring Governments, to have authority to convey criminals through this Government 87
their general power and duty - - - 153
to give ſecurity - - - - 153, 662
to ſettle their accounts with the Supreme Judicial Court and Courts of General Seſſions - - 154
not to act as Attorney, fill writs, plead for or adviſe any party 154
neglecting to pay money due on execution, to pay five times the intereſt - - - - 154
not liable to have their bodies arreſted - - 154
liable to be removed for not paying executions againſt them, &c. - - - 154, 663
when removed from office may ſerve executions in their hands 154
when removed, alias executions may be made out againſt their bodies, &c. - - - 155
to execute all legal precepts from Judges of Probate 155
Conſtables, and other officers, to ſerve warrants iſſuing from a Juſtice - - - 160
and other officers, if guilty of fraud in extending of executions, liable - - - - 171
to fill Juries, when deficient, *de talibus circumſtantibus* 188, 192
to forward *Venires* to Conſtables - - 189
to appoint Juries on proceſs of forcible entry and detainer 190
anſwerable for eſcapes - - - 219, 220
to keep a kalendar of priſoners - - 220
and Gaolers, to return a liſt of priſoners - 220
upon the death of, mittimuſes, kalendar, &c. to be delivered over - - - - - 221
to diſperſe warrants for aſſeſſing taxes - - 265

Pages.

Sheriffs to serve warrants of distress on deficient Collectors' estate 266, 268, 269
to serve the Treasurer's warrants on deficient Assessors 277
to collect taxes where towns neglect to choose Collectors 305
to secure or disperse rioters - - - 346
to certify to the Majors-General when a force is necessary to suppress tumults - - - 366
and other officers to account and pay over all fines and costs 532
to give notice to Coroners of their appointment, &c. 554
their duty in the choice of Representatives in Congress 651
to give new security, in case - - - 662
their fees - - - - 706
neglecting to return votes for Representatives, penalty 718
authorized to require aid in the execution of their office 724
persons not really Sheriffs, &c. pretending to be so, penalty 724
in their absence, Justices of the Peace may apprehend, &c. 724
actions against, limited - - - - 770
&c. their duty when persons curse or swear profanely in their hearing - - - - 830
to dispose of convicts in service for payment of costs, and to make return of their doings when ordered by the Courts of General Sessions - - - 862
to serve warrants of distress for taxes where towns neglect to choose Assessors - - - 893
to serve warrants of distress where the estates of delinquent Assessors may be insufficient - - - 894
doings of the Deputies in the county of Hancock made valid 913
authorized to execute sentences of death - - 1052
Shingles, tale, &c. of, regulated - - 104, 164, 166
Sickness, *Contagious*, Act to prevent the spreading of 788, 896
Slave-Trade prohibited - - - 407
Small-Pox, an Act regulating the inoculation of, &c. 565, 789
Sodomy, trial and punishment of - - 223, 224
Solicitor-General to be appointed - - - 925
compensation for his services - - 942
Special Justices of the Courts of Common Pleas, appointment of 158
Statements to be filed when general issue is pleaded, &c. - 560
Staves, dimensions, &c. - - - 104, 164
Stray Beasts, Act respecting - - - 449
Strip and Waste, pending actions of ejectment prohibited 732
Subpœna in all civil actions, grantable by Justices of the Peace 148
for witnesses, form of - - - 205
Suffolk County divided - - - 569, 577
Suffolk and Middlesex Counties, line of their jurisdiction upon Charles River - - - 654
Suits on probate bonds - - - 431
against defendants out of the State, mode of service in them 808, 810
Summonses for witnesses to testify, form of - - 802
to defendants in suits, where to be left - - 808
to joint obligors, may be served on one when another is out of the State - - - 810
Surgeons to have the bodies of duellers to dissect 194
Surveyors of Lumber, their power and duty - - 103

Pages.

Surveyors of Flaxseed, appointment of, &c. - 208, 474
Surveyors of Highways, their power and duty 386, 388, 389, 398, 758
to refund, in case towns are fined for deficiency - 392
Survivorship, right of, not to take place in debts on recognizance 82
not to take place in joint tenancies - 162, 297
Swearing profanely, Act to prevent it - - 829
Swine, regulations respecting, &c. - - - 451, 769

T.

TAVERNERS, &c. not to entertain hawkers, &c. on penalty 244
penalty for playing at cards, &c. at their houses - 295
to be licensed, &c. - - - 375
to have boards affixed to their houses, and to provide for travellers, and to entertain people - - 376
not to suffer minors, servants, drunkards, &c. to sit drinking, &c. 377
if they trust more than 10*s.* to inhabitants, to lose their debt 381
their duty, &c. when persons drink in their houses on Sunday 537
penalty for keeping billiard-tables - - 825
Taxes, County, how apportioned, collected and paid - 64
of proprietors of common estates, regulated - 140
Act for enforcing the speedy payment of 265, 617, 893, 1006
mode of assessing and collecting them in plantations 270, 271
of counties, &c. to be apportioned by the rules of the last tax Act - - - - 279
of proprietors of common and general fields, regulated 288
for supporting county gaols, how made - - 218
personal chattels exempted from distress, for the payment of 270
for the support of highways, how made - - 387
persons dying, marrying, or removing, action lies for them 465
poor persons committed for, liberated in case - 505
towns to pay them where persons swear out of gaol 507
for support of schools, &c. - - - 472, 906
mode of collecting in certain cases - - 524
for the support of public worship, how to be assessed 932
Temporary Laws sundry, made perpetual - - 765, 788
Tenants by curtesy, who are so - - - 126
in common, how to manage their estate - 138, 504
in common, and joint tenants, waste by prevented 161, 296
in common, and joint tenants, may be compelled to divide 161, 296
in common, and heirs, &c. may join or sue separately for their inheritance - - - 162, 297
in dower, not to make strip or waste - - 143
to be summoned though not defendants in real actions 809
Tender of money in twelve months, by executors and administrators, saves costs - - - - 460
Theft, punishment of - - - 231, 232, 233
persons sentenced for, to be sold in thirty days, unless 234
Timber, when left on improved land adjoining Connecticut-River, the owner of the land entitled to damages 53, 335
Act to secure to owners the property of - - 610
when taken and secured in Saco-River, how to be proceeded with 611
Time, called holy, when no civil process can be served - 538
Tobacco, exportation of, regulated - - - 253

Pages.

Town-Clerks may swear Appraisers, &c. in case - - 124
may certify the choice of guardians by minors, in case 135
to record votes for County Registers - - 175
their duty in the choice of Petit Jurors - 187, 189
their duty respecting strays and lost goods - - 450
to record births and deaths - - - 725
Town officers, how to be notified and sworn - - 314
officers, forfeiture for not taking their oaths - 314
officers, to inform the Clerk of their acceptance in 7 days 314
Clerks to make record of persons sworn into office - 315
offices vacant by death, &c. to be filled up - 315
meetings, how to be called and regulated - 315, 316
affairs at March meeting, may be done at April meeting 318
meetings' proceedings, rendered valid where warrants were signed by the Town-Clerk - - - - 530
inhabitants and others, admitted as witnesses where the corporation is concerned - - - - 557
Towns to choose Surveyors of Lumber in March annually 103
when sued, to have at least thirty days' notice 141, 318
neglecting to choose Grand Jurors, penalty - 185
when to assemble for the choice of Petit Jurors - 188
to choose Cullers of dry Fish annually - - 212
to make good to the treasury the sums owing by deficient Collectors of Taxes - - - 266
neglecting to choose Selectmen or Assessors, penalty 276
to choose Fence-Viewers - - - 283
to choose Collectors of rates and taxes - - 304
lines of settled, and to be run every five years - 313
in March or April annually, to choose officers - 313
to grant monies, make by-laws, &c. of highways, &c. 317
made bodies corporate, may choose Agents and Attornies 318
to raise monies for the repairs of highways - 387
may erect work-houses and appoint Overseers - 434
to provide materials for work-houses - - 436
not being provided with pounds, penalty - - 455
to provide themselves with School-Masters, &c. - 469
to raise monies for the support of schools - - 472
may erect hospitals for the small-pox - - 565
liable to persons whose estates may be taken for taxes not assessed - - - - - 618
how to be warned to choose Grand Jurors - - 632
to provide suitable Ferrymen - - - 750
may choose Firewards - - - 779
may choose Health Committees - - - 794
empowered to restrain cattle going at large - - 902
to be provided with a public protestant Teacher - 931
authorized to grant lands - - - - 966
may appoint Assay-Masters to inspect distill-houses 1001
may appoint the times of keeping open sluice-ways for the passage of fish - - - - 1021
may choose Overseers of the fishery in streams, &c. 1021
Travelling on Sundays prohibited - - 537
Treason, Petit, distinction between it and murder abolished, and punished as murder - - - - 236

INDEX.

Pages.

Treaſon, Acts againſt, and trials therein, regulated 1046, 1049, 1052
not to work corruption of blood - 1051
Treaſurer of the Proprietors of common Lands, to ſue for and pay money 141
Treaſurer of Towns, to enforce diſtrict taxes for ſchool-houſes 906
Treaſurer of Towns, Counties and Pariſhes, to ſue for certain treſpaſſes 259
to iſſue warrants of diſtreſs to the Sheriffs againſt deficient Collectors - - - 266, 268, 269, 270
Treaſurer of Towns and Precincts, to proſecute delinquent officers 275
Treaſurer, County, to take bond of Clerks of Courts, &c. - 360
Treaſurer of Counties, to pay executions in ſome caſes of eſcape 218
time and manner of appointing - - 319
to diſcharge county charges, and ſettle accounts 319, 320
to enforce the collection of county taxes, and to ſettle 320
to receive money of the United States for priſoners 487
to require Juſtices to account for fines - 534
to account with the Governor and Council, their allowance, &c. 660
may ſue ſecurities given to predeceſſors - 787
Treaſurer of the Commmonwealth, to take ſecurity of Sheriffs, &c. 153, 663
to iſſue execution againſt Collectors, at the requeſt of Selectmen 179
to iſſue his warrant for aſſeſſing taxes to the Sheriffs 265, 617
to certify to the Seſſions towns deficient in aſſeſſing taxes 266
to give bond, and the form of it, &c. - 467, 468, 540
his duty in funding the public debt - - 603
to iſſue a warrant of diſtreſs for taxes where towns neglect to chooſe Aſſeſſors - - - 893
Treaſurer of the Commonwealth and County, to ſettle for fines and coſts received - - - 154, 534
Treaſurer of Commonwealth and Counties, to iſſue warrants of diſtreſs where the eſtates of delinquent Aſſeſſors are inſufficient - - - - 894
Treaſurer of the Commonwealth, Counties and Towns, to ſue on ſecurities given to their predeceſſors - 787
to preſerve public ſtandards of weights and meaſures 898, 900, 938
Treaſurer of State, County and Town, to ſue for fines not paid over by Juſtices - - 160
Treaty with Great-Britain, laws againſt, repealed - 393
Trees, white-pine, deſtruction of, on Commonwealth's land, prevented - - - 108
not to be cut or barked without licenſe, on penalty - 997
Treſpaſs, actions of, before a Juſtice, no title in evidence, general iſſue - - - 147, 796
by joint-tenants and tenants in common, prevented - 161
on general and common fields, prevented - 289
actions of, &c. limited - - 354
Q. C. fregit, a diſclaimer may be pleaded, &c. - 354
Treſpaſſes, in certain caſes, penal laws reſpecting - 257, 258
committed in the night-time, penalty - - 258
on lands 20 years, bars an action - - 354
Q. C. fregit, lies for cattle doing damage, fences being good 456
Act relating to them - - 1005
action of, to recover the penalty for deſtroying wood, &c. 611
Truſtees anſwerable to judgment creditors, &c. - 427
liable to proceſs for the effects of debtors in their hands 673, 820
Turnpike Corporation, firſt, Maſſachuſetts - - 745

Pages.

Tythingmen, appointment of, and their duty as to licenſed houſes 381
their general duty - - - 538

U.

UNINCORPORATED Plantations, taxes on - 270
under the ſame obligations as towns, as to highways 755
United States priſoners to be kept in the gaols of the Commonwealth, until - - - - 487
juriſdiction reſpecting light-houſes 495, 609, 687, 743, 770, 847, 935, 938
juriſdiction of Seguin-Iſland, granted to - 609
judiciary power of, not to extend to certain caſes againſt individual States - - - 647
Caſtle-Iſland ceded to them, and other territory - 823
land on Wigwam-Point ceded to them - - - 935
Clark's-Point ceded to them - - 938
authorized to purchaſe land in Charleſtown for a navy-yard 940
Univerſity, Preſident, &c. of, their duty in the inſtruction of Youth 470
Unwholeſome Proviſions, ſale of, puniſhed - - 224
Uſes, Charitable, donations to, &c. regulated - - 282
Uſury, an Act againſt taking exceſſive - - 166
limitations of, proſecutions for - - - 425

V.

VACANCY in town offices, how ſupplied - - 315
Vagrants, Rogues, &c. to be ſent to the houſe of correction 435
Vendues of perſonal eſtate, by executors or adminiſtrators - 131
of real eſtate, by diſtreſs warrants, in favour of the Commonwealth - - - 172
of property generally, regulated - - 684
Venue muſt be truly laid in all penal proſecutions - 426
Veſſels, pilotage of - - - 100
liable to pay Light money - - 197
to be examined at the Caſtle - - 791
regulations, in caſe of peſtilential diſeaſe - 795
Vibrating Steelyard, uſe of it authorized - - 944
Vice, of various ſpecies, provided againſt - - 411
View, by a Jury, to be granted in all real actions - - 189
Viewers and Cullers of Hoops, &c. to be annually choſen - 105
Voters in town affairs, their qualifications - - 65
Votes of proprietors of common lands, how to be reckoned 139

W.

WARRANTS from Courts of General Seſſions, to be ſealed, &c. 72
to apprehend perſons charged with offences in other States 86
form of, for inquiſitions of dead bodies - 150
from Juſtices, in criminal caſes - - 160
of diſtreſs, in favour of the Commonwealth, how to be ſerved 172
of diſtreſs, to be ſealed, ſigned, teſted, &c. - 173
form of, in forcible entry and detainer - - 190
of diſtreſs, to ſatisfy coſts of inquiſitions on duellers 194
mittimuſes, &c. to be filed and kept by Sheriffs and Gaolers 221
of diſtreſs, form of, againſt Collectors for not paying taxes 268
of diſtreſs, when levied on lands, mode of proceeding 269
of diſtreſs, articles exempted from them - 270

Page.

Warrants, form of, to Collectors of Taxes, by Assessors 278, 279
form of, in case of not working on the highways - 391
for selling swine impounded - - 452
of distress, on Collectors, &c. how served, &c. - 525
signed only by the Town-Clerk, made valid - 530
Washington County incorporated and bounded - - 477
Washington's (President) Address - - - 947
Waste, when executors or administrators are guilty of it 121, 639
penalty for tenants in dower committing it - 143
when committed by executors, &c. Justices may issue executions against their proper goods - - 148
by joint tenants and tenants in common, prevented 161, 296
not to be committed, pending an action, on penalty 732
Watches and Wards, Act for keeping them in towns - 772
Ways, private, how laid out - 371, 965, 978, 1004, 1045
common, and highways, how laid out, &c. - 372
common, &c. how repaired - - - 386
private, how repaired, &c. - - - 398
Weights and Measures, Act for the due regulation of 898, 938
Widows may wave the provision made for them in wills, and have dower assigned - - - 111
entitled to their apparel, &c. when the personal estate is insufficient for the payment of debts - 125
entitled to one third of personal estate, and one half, if no children - - - - 125
entitled to dower - - - 125, 134
may sue for dower, if not assigned by the heir in one month 142
not to commit strip nor waste on dower, and to keep buildings in repair - - - 143
not to be barred of dower, where they have not joined in conveyances - - - 134
Williams' College established - - 598, 728
Wills to be in writing, attested by three witnesses, &c. 109, 111, 1031, 1032, 1033, 1034
not revoked but by similar writing, tearing, &c. - 110
in writing, concerning personal estate, not to be repealed, unless 110
noncupative, in what cases good - - 110
———— probate of, regulated - - - 110
purporting a disposition of both real and personal estate, and not attested according to law, not to be proved as a testament of personal estate only - - 111
proved out of the State, when filed and recorded within it, to have the same force as if proved within this Government 246
proceedings in filing and recording such wills - 246
may be proved by depositions, in case - - 247
foreign, to be executed as our laws require - 247
devises by, for life, and after to children, how to be construed 543
at what age they may be made - - 961
how they might be proved anciently - - 967
of Indians, devising lands, void, unless approved by the General Court - - - 1030
Witnesses to wills, devises, &c. to them to be void - 112, 113
to wills, their legacies being paid or refused, are competent 112

Pages.

Witneſſes to wills, when creditors, and their debts are charged on the real eſtate, to be admitted - - 112
to wills, when legatees, and dead, ſhall be deemed legal 112
refuſing to appear before the Judge of Probate, penalty in that caſe - - - 123
making default, liable to damages and default - 205
women admitted in caſes of baſtardy - - 299
obliged to appear before Referees, &c. - - 334
townſmen to be admitted in proſecutions of highways 392
not required to appear for defendants, in criminal caſes, unleſs paid - - - 535
not paid for travel and attendance on behalf of the Commonwealth, unleſs ſummoned by requeſt of the Attorney-General, &c. - - - 535
muſt be two, at leaſt, to a deed to bar entailments - 542
inhabitants of towns, &c. admitted as ſuch, in caſes where the corporations are intereſted - - 557
and parties, their fees - - - 705
two, neceſſary to convict of treaſon - 1049, 1050
Wolves, bounty for the deſtruction of - - 88
Women, *Married*, to ſell land by licenſe, as if ſole, in caſe 404
inhabitants with, and where their huſbands are - 607
Work-Houſes, erection and ſupport of - - 433
deſcription of perſons liable to be ſent there - 436
Worſhip, religious, penalty for diſturbing it - - 538
of God, provided for - - 931
Writs of *Audita Querela*, form of, and proceedings upon - 55
and proceſſes of Supreme Judicial Court, how ſigned, &c. 70
iſſuing from the Courts of Common Pleas, how teſted, &c. 72
Capias, from the Court of Common Pleas, how ſerved 72
——— to bring criminals into Court of Seſſions - 74
Scire Facias, on outlawry, mode of executing - 76
Capias, from Supreme Judicial Court, in outlawry, how returnable, in caſe - - - 77
of execution on the proceſs Act, form of - - 81
of execution, not to run againſt the bodies of the heirs, or the proper goods of the executors or adminiſtrators of conuſors 82
not to iſſue on a recognizance until after a *Scire Facias*, in caſe 82
of *Scire Facias*, to iſſue, after three years, on recognizances for debts before Juſtices - - - 83
of attachment and execution, not to run againſt the bodies of executors or adminiſtrators, unleſs - - 122
of *Scire Facias*, when to be iſſued againſt executors and adminiſtrators - - - 122
againſt towns, &c. to be ſerved at leaſt thirty days before the Court - - - 141, 318
of dower, form of - - - 143
of ſeizin of dower, form of - - - 143
iſſuing from Juſtices, when to be ſerved, &c. - 147
Scire Facias, on the judgment of a Juſtice deceaſed, to be iſſued by another Juſtice - - - 148
to be ſerved by Coroners, in caſe - - 150
to be ſerved by Sheriffs - - - 153
Scire Facias, may iſſue from the Court of Common Pleas, to recover a forfeited recognizance to proſecute an appeal 168

Pages.

Writ of attachment, may iſſue from the Courts of General Seſſions, to bring an appellant failing to proſecute - 160
Scire Facias, on a judgment, after one year - 169
of ſummons, in forcible entry and detainer - 191
of *Certiorari*, to remove proceedings in forcible entry and detainer 192
of reſtitution, in the proceſs of forcible entry and detainer 192
of *Scire Facias*, againſt bail, to iſſue in civil cauſes - 195
form of, in civil caſes - - - 199, 229
of *Habere Facias Poſſeſſionem*, form of - - 201
of *Scire Facias*, form of - - - 202
original, how to be endorſed - - - 206
all of them being original, muſt be endorſed - 206
of *Habeas Corpus*, when awardable, proceedings and form of 237, 238, 239
of attachment, to compel obedience to *Habeas Corpus* 239
of *Habeas Corpus*, no perſon enlarged thereon ſhall be again impriſoned, unleſs - - - 240
of *Scire Facias*, to alter the extent of an execution 245, 501
of partition of tenancies in common, &c. - - 296
of right, limited to ſixty years - - - 328
of ſeizin, limited to fifty years - - 328
of *Formedon*, limited to twenty years - - 328
on probate bonds, to be endorſed by the real creditor as well as by the plaintiff - - - 358
de Homine Replegiando - - 361, 362, 363
Capias, in *Withernam* - - - 364
of review, how ſued out - - 369, 424, 520
of review, granted and regulated - - 423, 519
to ſell ſwine, having been at large - - 452
of replevin, form of - - - 479, 481
of *Withernam*, form of - - - 483
not to be ſerved on Sunday - - - 538
to remove paupers, &c. - - - 625
of attachment and execution, on the Truſtee Law, form of 674, 676
how to be ſerved generally - - - 808

Y.

YOUTH, education of, provided for - - 469, 906

5375 46